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LEGISLATIVE HISTORY
Public Law 91-540
S. 2543

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INDEX AND SUMMARY OF S. 2543

- July 2, 1969 Sen. Tydings and others introduced S. 2543 which was referred to Senate Commerce Committee. Print of bill as introduced.
- Sept. 15, 1969 Rep. Kyros introduced H. R. 13784 which was referred to House Interstate and Foreign Commerce Committee. Print of bill as introduced.
- Nov. 24, 1969 Senate committee voted to report S. 2543.
- Dec. 15, 1969 S. committee reported S. 2543 with amendments. S. Rept. 91-609. Print of bill and report.
- Dec. 18, 1969 Senate passed S. 2543 as reported.
- Dec. 19, 1969 S. 2543 was referred to House Interstate and Foreign Commerce Committee. Print of bill as referred.
- Oct. 6, 1970 House subcommittee approved S. 2543 for full committee consideration.
- Oct. 7, 1970 House committee voted to report S. 2543.
- Oct. 12, 1970 House committee reported S. 2543 with amendments. H. Rept. 91-1597. Print of bill and report.
- Nov. 16, 1970 House passed S. 2543 under suspension of rules.
- Nov. 24, 1970 Senate agreed to House amendment.
- Dec. 9, 1970 Approved. Public Law 91-540

THE HISTORY OF THE

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IN THE SENATE OF THE UNITED STATES

JULY 2, 1969

Mr. TYDINGS (for himself, Mr. CASE, Mr. GOODELL, Mr. GRAVEL, Mr. MOSS, Mr. NELSON, Mr. PELL, Mr. PROXMIRE, Mr. RANDOLPH, Mr. SPONG, Mr. THURMOND, Mr. YARBOROUGH, and Mr. YOUNG of Ohio) introduced the following bill; which was read twice and referred to the Committee on Commerce

A BILL

To protect interstate and foreign commerce by prohibiting the movement in such commerce of horses which are "sored", and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Horse Protection Act of
4 1969".

5 SEC. 2. (a) A horse shall be considered to be sored if,
6 for the purpose of affecting its gait, a blistering agent has
7 been applied internally or externally to any of the legs,
8 ankles, feet, or other parts of the horse, or if burns, cuts, or
9 lacerations have been inflicted on the horse, or if a chemical

1 agent, or tacks, nails, or wedges have been used on the horse,
2 or if any other method or device has been used on the horse,
3 including, but not limited to chains or boots, which may rea-
4 sonably be expected currently (1) to result in physical pain
5 to the horse when walking, trotting, or otherwise moving, or
6 (2) to cause extreme fear or distress to the horse.

7 (b) As used in this Act, the term "commerce" means
8 commerce between a point in any State or possession of the
9 United States (including the District of Columbia and the
10 Commonwealth of Puerto Rico) and any point outside
11 thereof, or between points within the same State or possession
12 of the United States (including the District of Columbia and
13 the Commonwealth of Puerto Rico) but through any place
14 outside thereof, or within the District of Columbia, or from
15 any foreign country to any point within the United States.

16 SEC. 3. The Congress hereby finds (1) that the practice
17 of soring horses for the purposes of affecting their natural
18 gait is cruel and inhumane treatment of such animals; (2)
19 that the movement of sored horses in commerce adversely
20 affects and burdens commerce; (3) that horses which are
21 sored compete unfairly with horses moved in commerce
22 which are not sored.

23 SEC. 4. (a) It shall be unlawful for any person to ship,
24 transport, or otherwise move, or deliver or receive for move-

1 ment, in commerce, for the purpose of showing or exhibition,
2 any horse which such person has reason to believe is sore.

3 (b) It shall be unlawful for any person to show or
4 exhibit, or enter for the purpose of showing or exhibiting, in
5 any horse show or exhibition, any horse which is sore if
6 that horse or any other horse was moved to such show or
7 exhibition in commerce.

8 (c) It shall be unlawful for any person to conduct any
9 horse show or exhibition in which there is shown or exhibited
10 a horse which is sore, if any horse was moved to such show
11 or exhibition in commerce.

12 SEC. 5. (a) Any representative of the Secretary of
13 Agriculture is authorized to make such inspections of any
14 horses which are being moved, or have been moved, in com-
15 merce and to make such inspections of any horses at any
16 horse show or exhibition within the United States to which
17 any horse was moved in commerce, as he deems necessary
18 for the effective enforcement of this Act, and the owner or
19 other person having custody of any such horse shall afford
20 such representative access to and opportunity to so inspect
21 such horse.

22 (b) The person or persons in charge of any horse show
23 or exhibition within the United States shall keep such records
24 as the Secretary of Agriculture may by regulation prescribe

1 in order to enable the representatives of said Secretary to
2 determine whether any horses were moved to or from such
3 show or exhibition in commerce, the identity of the owner or
4 exhibitor of any horse at the show or exhibition, and other
5 facts necessary for the effective enforcement of this Act, and
6 the person or persons in charge of any horse show or exhibi-
7 tion shall afford the representatives of the Secretary of Agri-
8 culture access to and opportunity to inspect and copy such
9 records at all reasonable times.

10 SEC. 6. Any person who violates any provision of this
11 Act shall be fined not more than \$500 or imprisoned not
12 more than six months, or both.

13 SEC. 7. Whenever the Secretary of Agriculture believes
14 that a violation of this Act has occurred and that prosecution
15 is needed to obtain compliance with the Act, he shall inform
16 the Attorney General and the Attorney General shall take
17 such action with respect to such matter as he deems appropri-
18 ate.

19 SEC. 8. The Secretary of Agriculture shall, in carrying
20 out the provisions of this Act, to the maximum extent prac-
21 ticable, utilize the existing personnel and facilities of the De-
22 partment of Agriculture. The Secretary of Agriculture is
23 further authorized to utilize the officers and employees of any
24 State, with its consent, to assist him in carrying out the pro-
25 visions of this Act.

1 SEC. 9. The Secretary of Agriculture is authorized to
2 issue such rules and regulations as he deems necessary to
3 carry out the provisions of this Act.

4 SEC. 10. There are hereby authorized to be appropriated
5 such sums as may be necessary to carry out the provisions
6 of this Act.

A BILL

To protect interstate and foreign commerce by prohibiting the movement in such commerce of horses which are "sored", and for other purposes.

By Mr. TYDINGS, Mr. CASE, Mr. GOODELL, Mr. GRAVEL, Mr. MOSS, Mr. NELSON, Mr. PELL, Mr. PROXMIRE, Mr. RANDOLPH, Mr. SPONG, Mr. THURMOND, Mr. YARBOROUGH, and Mr. YOUNG of Ohio

JULY 2, 1969

Read twice and referred to the Committee on
Commerce

91ST CONGRESS
1ST SESSION

H. R. 13784

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 15, 1969

Mr. KYROS introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

A BILL

To protect interstate and foreign commerce by prohibiting the movement in such commerce of horses which are "sored," and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Horse Protection Act of
4 1969."

5 SEC. 2. (a) A horse shall be considered to be sored if,
6 for the purpose of affecting its gait, a blistering agent has been
7 applied internally or externally to any of the legs, ankles,
8 feet, or other parts of the horse, or if burns, cuts, or lacerations
9 have been inflicted on the horse, or if a chemical agent, or
10 tacks, nails, or wedges have been used on the horse, or if any

1 other method or device has been used on the horse, including,
2 but not limited to chains or boots, which may reasonably be
3 expected currently (1) to result in physical pain to the horse
4 when walking, trotting, or otherwise moving, or (2) to cause
5 extreme fear or distress to the horse.

6 (b) As used in this Act, the term "commerce" means
7 commerce between a point in any State or possession of the
8 United States (including the District of Columbia and the
9 Commonwealth of Puerto Rico) and any point outside there-
10 of, or between points within the same State or possession of
11 the United States (including the District of Columbia and
12 the Commonwealth of Puerto Rico) but through any place
13 outside thereof, or within in the District of Columbia, or from
14 any foreign country to any point within the United States.

15 SEC. 3. The Congress hereby finds (1) that the practice
16 of soring horses for the purpose of affecting their natural gait
17 is cruel and inhumane treatment of such animals; (2) that
18 the movement of sored horses in commerce adversely affects
19 and burdens commerce; (3) that horses which are sored
20 compete unfairly with horses moved in commerce which are
21 not sored.

22 SEC. 4. (a) It shall be unlawful for any person to ship,
23 transport or otherwise move, or deliver or receive for move-
24 ment, in commerce, for the purpose of showing or exhibition,
25 any horse which such person has reason to believe is sored.

1 (b) It shall be unlawful for any person to show or
2 exhibit, or enter for the purpose of showing or exhibiting, in
3 any horse show or exhibition, any horse which is sores if that
4 horse or any other horse was moved to such show or exhibi-
5 tion in commerce.

6 (c) It shall be unlawful for any person to conduct any
7 horse show or exhibition in which there is shown or exhibited
8 a horse which is sores, if any horse was moved to such show
9 or exhibition in commerce.

10 SEC. 5. (a) Any representative of the Secretary of
11 Agriculture is authorized to make such inspections of any
12 horses which are being moved, or have been moved, in com-
13 merce and to make such inspections of any horses at any
14 horse show or exhibition within the United States to which
15 any horse was moved in commerce, as he deems necessary
16 for the effective enforcement of this Act, and the owner or
17 other person having custody of any such horse shall afford
18 such representative access to and opportunity to so inspect
19 such horse.

20 (b) The person or persons in charge of any horse show
21 or exhibition within the United States shall keep such rec-
22 ords as the Secretary of Agriculture may by regulation pre-
23 scribe in order to enable the representatives of said Secretary
24 to determine whether any horses were moved to or from
25 such show or exhibition in commerce, the identity of the

1 owner or exhibitor of any horse at the show or exhibition,
2 and other facts necessary for the effective enforcement of this
3 Act, and the person or persons in charge of any horse show
4 or exhibition shall afford the representatives of the Secretary
5 of Agriculture access to and opportunity to inspect and copy
6 such records at all reasonable times.

7 SEC. 6. Any person who violates any provision of this
8 Act shall be fined not more than \$500 or imprisoned not
9 more than six months, or both.

10 SEC. 7. Whenever the Secretary of Agriculture believes
11 that a violation of this Act has occurred and that prosecution
12 is needed to obtain compliance with the Act, he shall inform
13 the Attorney General and the Attorney General shall take
14 such action with respect to such matter as he deems appro-
15 priate.

16 SEC. 8. The Secretary of Agriculture shall, in carrying
17 out the provisions of this Act, to the maximum extent prac-
18 ticable, utilize the existing personnel and facilities of the
19 Department of Agriculture. The Secretary of Agriculture is
20 further authorized to utilize the officers and employees of any
21 State, with its consent, to assist him in carrying out the pro-
22 visions of this Act.

23 SEC. 9. The Secretary of Agriculture is authorized to is-

1 sue such rules and regulations as he deems necessary to carry
2 out the provisions of this Act.

3 SEC. 10. There are hereby authorized to be appropriated
4 such sums as may be necessary to carry out the provisions of
5 this Act.

91ST CONGRESS
1ST Session

H. R. 13784

A BILL

To protect interstate and foreign commerce by prohibiting the movement in such commerce of horses which are "sored," and for other purposes.

By Mr. KYROS

SEPTEMBER 15, 1969

Referred to the Committee on Interstate and Foreign
Commerce

SENATE

14. BUDGET. Received from the President proposed amendments to the 1970 fiscal year budget for the Export Import Bank (S. Doc. 91-43); to Appropriations Committee. p. S14903
15. CLEAN AIR. Senator Tydings spoke on the threat to our waters of thermal discharges from nuclear power plants and submitted articles in support of his remarks. pp. S 14918-21
16. GRAIN SHIPMENT. Senator Curtis deplored the critical boxcar shortage, estimating that 10 million bushels of grain were on the ground with no storage available. p. S14949
17. TAX REFORM. Began debate on H. R. 13270, the tax reform bill. pp. S14942-9, 14952-67
18. HORSES: The Commerce Committee voted to report (but did not actually report)/ to prohibit the movement in Interstate Commerce of "sored" Tennessee walking horses. p. D1115 S. 2543,

EXTENSIONS OF REMARKS

19. FOREIGN ASSISTANCE. Extension of remarks of Rep. Dennis giving his views and discussing his vote on the foreign aid bill. p. E9986
 20. WATER POLLUTION. Rep. Steiger inserted an article reporting on the accomplishments of a constituent in his fight against water pollution. p. E10012
- BILLS INTRODUCED
21. PLASTIC BAGS. H. R. 14939 by Rep. Broyhill, to authorize the Secretary of Health, Education, and Welfare to prescribe standards governing the design of plastic bags and other commercial articles utilizing plastic sheeting with dangerous adhesive characteristics; to the Interstate and Foreign Commerce Committee.
 22. TRADE. H. R. 14941 by Rep. Burton, to provide for the imposition of a duty on excessive imports of potassium chloride or muriate of potash; to the Ways and Means Committee.
 23. MEAT INSPECTION. H. R. 14942 by Rep. Denney, to amend the Federal Meat Inspection Act to give any State an additional year to develop and enforce an effective inspection program for meat and meat food products that are distributed wholly within such State; to the Agriculture Committee.
 24. CREDIT CONTROLS. H. R. 14954 by Rep. Sullivan, to authorize standby credit controls; to the Banking and Currency Committee. Remarks of author p. E9994-10005.
 25. DYE. H. R. 14956 by Rep. Bush, to amend the Tariff Act of 1930 - to extend the duty-free treatment of certain dyes; to the Ways and Means Committee.
 26. ETHICS. H. R. 14959 by Rep. Slack, to promote public confidence in the integrity of Congress and the executive and judicial branches of the Government of the U. S.; to the Judiciary Committee.

27. MINK. H. R. 14961 by Rep. Vigority, to amend the Tariff Schedules of the U. S. with respect to the rate of duty on whole skins of mink, whether or not dressed; to the Ways and Means Committee.
28. TOYS. H. J. Res. 997 through H. J. Res. 1012, by several representatives, to give immediate effect to the provisions of the Child Protection and Toy Safety Act of 1969; to the Interstate and Foreign Commerce Committee.
29. TUNA FISHERY. S. 3176 by Sen. Fong, to authorize a program for the development of a tuna fishery in the Central and Western Pacific Ocean; to the Commerce Committee. Remarks of author pp., S14906-7.

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COMMITTEE HEARINGS:

- Nov. 25: Cotton program, H. Agriculture.
Foreign aid program, S. Appropriations.
Supplemental appropriations, S. Appropriations.
Military construction, S. Appropriations.
National park legislation, H. Interior.
National forest high timber yield, H. Rules.
Agriculture subcommittee. H. Appropriations (exec).
- Dec. 8: Cotton program, H. Agriculture (Paarlberg,
Frick, ASCS, to testify).

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DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

For actions of December 15, 1969
91st-1st No. 208

OFFICE OF BUDGET AND FINANCE
(FOR INFORMATION ONLY;
NOT TO BE QUOTED OR CITED)

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HIGHLIGHTS: Sen. Ribicoff introduced and discussed pesticide control bill.

SENATE

1. FOOD STAMPS. Sen. Aiken, objecting to the language of S. 2547, the food stamp bill passed by the Senate, stated that "there seems to be little or no limit at all on just what you could buy with food stamps if the substitute becomes law"; inserted a Senate Agriculture committee staff counsel and analysis of the bill. pp. S16701-2
2. SORED HORSES. The Commerce Committee reported with amendments S. 2543, to prohibit the movement of sores horses in interstate and foreign commerce (Rept. No. 91-609). p. S16709
3. ORGANIZATION; NATURAL RESOURCES. Sen. Moss submitted an amendment in the nature of a substitute to his bill S. 1446, to establish a Department of Natural Resources. pp. S16709-12
4. TOY SAFETY; CHILD PROTECTION. Sen. Moss called attention to the dangerous nature of many toys and reiterated the point that many parents do not know that the Toy Safety and Child Protection Act will not become effective until Jan. 6, 1970. p. S16712
5. SALARIES. Sen. McGee lauded the passage of the salary comparability bill and inserted an editorial commending the action. p. S16715
6. BOX CAR SHORTAGE. Sen. Curtis noted that 50 million bushels of grain are on the ground in Nebraska and he inserted the resolution of the mid-America governors council demanding mandatory car service rules by ICC. Sen. Eagleton called for ICC action and inserted a newspaper article, "Abominable Car Shortage." pp. S16716-17
7. LUMBER. Sen. Hatfield urged passage of S. 1832, the National Timber Supply Act, and noted that "without timber, houses cannot be built." pp. S16717-18
8. CONSERVATION. Sen. Griffin inserted the address of Assistant Secretary Cowden at the 50th anniversary convention of the American Farm Bureau, "Conservation and Community Growth." pp. S16735-37
9. FHA. Sen. Randolph praised the work of FHA in West Virginia and complimented the state director. p. S16737
10. POLLUTION. Sen. Magnuson congratulated Henry Ford for his effort towards development of a "smogless" car and inserted a newspaper article. pp. S16796-7
11. EXPORT CONTROL. Conferees were appointed on H. R. 4293, the export control bill. p. S16797
12. APPROPRIATIONS. Passed, 85-4, with amendments H. R. 15090, the Defense Department appropriations bill, 1970 (pp. S16743, S16744-50, S16751-71, S16772-82 S16784-96). Conferees were appointed (p. S16795). An amendment submitted by Sen. Moss to provide land-grant status for the College of the Virgin Islands and the University of Guam was rejected when a point of order by Sen. Ellender was sustained, 66-22, (pp. S16793-5).

THE HORSE PROTECTION ACT OF 1969

DECEMBER 15, 1969.—Ordered to be printed

Mr. MAGNUSON, from the Committee on Commerce,
submitted the following

REPORT

[To accompany S. 2543]

The Committee on Commerce, to which was referred the bill (S. 2543) to protect interstate and foreign commerce by prohibiting the movement in such commerce of horses which are "sored," and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill do pass.

PURPOSE

S. 2543, the Horse Protection Act of 1969, is designed to end the inhumane practice of deliberately making sore the feet of Tennessee walking horses in order to alter their natural gait. It would do so by prohibiting the shipment of any horse in commerce, for showing or exhibition, which a person has reason to believe is sored; by making unlawful the exhibiting of a sored horse in any horse show or exhibition in which that horse or any other horse was moved in commerce; and by prohibiting the holding of any horse show in which a sored horse is exhibited if any of the horses in that show were moved in commerce.

NEED

The Tennessee walking horse is a magnificent animal, distinguished by its proud, high skipping gait or "walk." As a class Tennessee walkers have become exceedingly popular and now number approximately 25,000.

The horse's distinctive "walk" may be achieved through patient, careful training and is the result of both the trainers' skill and the horse's natural breeding. Unfortunately, however, it was discovered about 20 years ago that the "walk" could also be created artificially. If the front feet of the horse were deliberately made sore, the intense

pain which the animal suffered when placing his forefeet on the ground would cause him to lift them up quickly and thrust them forward, reproducing exactly the desired gait.

This soring is usually done by applying a blistering agent, such as oil of mustard, to the pastern area of the horse's leg and by wrapping this area with chains or metal rollers. Then, during a show, the sore is covered by a boot, used ostensibly to protect the horse's foreleg, but now valued because it rubs against the sore and heightens the pain even further.

The soring may also be accomplished in several other ways—nails, wedges, or even injections are sometimes used—but the effect is still the same. The “walk,” with its handsome stride—or “big lick” as it is known among walking horse enthusiasts—is achieved cheaply, without the long and difficult training period. It can make a mediocre horse perform like a champion.

That this method or producing the “big lick” is a particularly cruel and inhumane practice does not appear to matter to walking horse owners and trainers. With increasing frequency they have “sored” horses in order to achieve the desired gait and win the blue ribbon. The result has been that many of these animals have been cruelly mistreated, and persons who refuse to sore their horses have been faced with a difficult dilemma: either they must forgo most opportunities to compete successfully in horse shows, or they must devote their attentions to a different breed of horse. Moreover, the practice of soring, besides inflicting great pain on the individual horse, may seriously harm the breed itself. Because Tennessee walking horse champions are particularly valuable as studs, if a champion was created by means of soring, that practice may actually weaken, over a period of time, the breed's natural ability to “walk” in its distinctive fashion.

This bill should help end the unnecessary and inhumane practice of soring horses—something the Tennessee walking horse exhibitors have not done by themselves. By making unlawful the showing or exhibition of sored horses and imposing significant penalties for violations, the bill, in its practical effect, will make it impossible for persons to show sored horses in nearly all horse shows. This denial of the opportunity to win ribbons should destroy the incentive which presently exists for owners and trainers to painfully mistreat these magnificent animals.

PROVISIONS

There follows a section-by-section summary of the provisions of S. 2543, and a discussion of the committee's interpretation of these various provisions where appropriate.

Section 1.—Section 1 of the bill contains its short title: the Horse Protection Act of 1969.

Section 2.—Section 2 of the bill defines the term “commerce” and describes what is meant by the term “soring.” It states that a horse shall be considered to be sored if, for the purpose of affecting its gait, a blistering agent is applied internally or externally to any of the legs, ankles, feet or other parts of the horse; burns, cuts, or lacerations have been inflicted on the horse; a chemical agent or tacks, nails, or wedges have been used on the horse; or any other method or device has been

used on the horse, including, but not limited to, chains or boots; which may reasonably be expected either to result in physical pain to the horse when walking, trotting, or otherwise moving; to cause extreme fear or distress to the horse; or to cause inflammation. The committee would point out that not only must one of these soring techniques produce physical pain to the horse, cause extreme fear or distress to the animal, or cause inflammation, but it must also be used for the purpose of affecting its gait. In addition, the committee would emphasize that the secretary is to exercise his discretion in interpreting this definition so as not to apply it to beneficial therapeutic treatment by a veterinarian which is designed to relieve pain or lameness or to restore a lame or disabled horse's normal gait.

Section 3.—Section 3 of the bill contains the congressional finding that the soring of horses for the purpose of affecting their natural gait is a cruel and inhumane practice, that the movement of sored horses in commerce adversely affects and burdens such commerce, and that horses which are sored compete unfairly with horses that are moved in commerce which are not sored.

Section 4.—Section 4 sets forth some of the violations of the bill. It makes it unlawful for any person to ship, transport or otherwise move, or to deliver or receive for movement, in commerce, for the purpose of showing or exhibition, any horse which such person has reason to believe is sored. It also makes unlawful the showing or exhibiting of a sored horse in any horse show or exhibition in which that horse or any other horse was moved to such show or exhibition in commerce. Finally it makes it unlawful for any person to conduct a horse show or exhibition in which there is shown or exhibited a horse which is sored, if any horse was moved to such show or exhibition in commerce, unless such person can establish that he took all reasonable precautions to prevent the showing or exhibiting of the sored horse.

It will be noted that violations are centered upon the horse show rather than on the individual horse which is shipped interstate. The reason for this policy is twofold. It will allow the Department of Agriculture to administer the law without unreasonable burden, and it focuses upon the principal institution—the show or exhibition—which serves to perpetuate the practice of soring. Thus the bill places responsibility on the persons conducting a horse show, as well as on those who participate in it, to make sure that there is compliance with the law.

However since it would be unfair to impose liability upon an individual who is conducting a horse show in which a sored horse happens to be exhibited after he has made a conscientious and concerted effort to see that this does not occur the bill provides that such a person may escape liability once he establishes that he took all reasonable precautions to prevent the showing or exhibiting of the sored horse. The Committee intends that the term “reasonable precautions” will be construed to include at the minimum the examination of each horse to be exhibited by one or more qualified and independent veterinarians as the horses enter the exhibition area or shortly before they are actually exhibited.

Section 5.—In order to facilitate the effective enforcement of the bill subsection 5(a) would authorize any representative of the Secretary of Agriculture to inspect horses which are being moved or have

moved in commerce as well as horses which are at any horse show or exhibition within the United States if any horse in such show or exhibition was moved in commerce. The subsection further provides that the owner or other person having custody of any such horse shall afford such representative access to the horse and an opportunity to inspect it. A refusal to permit such inspection would constitute a violation of the bill and would expose an individual to the penalties established in section 6.

Subsection 5(b) provides that the person or persons in charge of any horse show or exhibition within the United States, or such other persons as the Secretary of Agriculture may by regulation designate, shall keep such records as the Secretary may by regulation prescribe. It also provides that the person or persons in charge of the horse show or exhibition, or such other person or persons the Secretary may by regulation designate, shall afford the representatives of the Secretary access to the records and an opportunity to inspect and copy them at all reasonable times. Again a failure to keep the required records or to provide access to them would represent a violation of the bill and would expose an individual to the penalties established in section 6.

Since the committee believed that it could not anticipate all of the problems which might arise in the administration of the bill, it amended the original language of subsection 5(b) in order to provide the Secretary with a more general rulemaking authority. Nevertheless, the committee would anticipate that the Secretary's initial regulations will include a requirement that records be kept which will enable representatives of the Department of Agriculture to determine whether any horses were moved to or from a show or exhibition in commerce. In addition, the initial regulations should require that records be kept which will assist enforcement officials in ascertaining the name and address of the owner or exhibitor of any horse present at the show or exhibition, and which will help the Department's representatives to determine the identity and qualifications of any veterinarians who examined the horses at the show or exhibition and the approximate time at which such horses were examined.

Section 6.—Subsection 6(a) of the bill provides that any person who violates any provision of the act or any regulation issued thereunder, other than a violation subject to a criminal penalty under subsection 6(b), shall be assessed a civil penalty by the Secretary of not more than \$1,000 for each violation. This subsection further provides that no penalty shall be assessed unless the person is given notice and opportunity for a hearing with respect to the violation. The subsection also gives the Secretary the authority to compromise any civil penalty. Should any person fail to pay the civil penalty which the Secretary has assessed, the bill provides that the Secretary shall request the Attorney General to institute a civil action in the U.S. district court to collect the penalty.

Subsection 6(b) of the bill provides that if any person willfully violates any provision of the act, or any regulation issued thereunder, he shall be fined not more than \$2,000 or imprisoned for not more than 6 months or both.

The present section 6 of the bill represents a marked revision of the enforcement section of the original bill which provided only criminal penalties. The committee decided to establish civil penalties for non-

willful violations because it believed that this would produce more frequent enforcement efforts than would imposition of a criminal penalty for a first violation. At the same time, however, it retained the criminal penalties for willful violations, anticipating that second or third time violators would customarily be subject to criminal prosecution. And since persons acquitted in a criminal proceeding could still be subject to a civil penalty for a nonwillful violation under subsection 6(a), the committee felt that it had adopted a more flexible and effective enforcement system.

In addition, the committee increased the maximum penalties which could be recovered under the bill from \$500 to \$1,000 for nonwillful violations and \$2,000 for willful violations. It did so in order to provide a more realistic deterrent to persons who might consider violating the bill, for the committee learned through the hearings that the rewards from soring—measured in terms of stud fees for a champion—could easily exceed \$100,000. Thus, both the size of the penalties and the method of enforcement provided in the amended section 6 should bear a more reasonable relationship to the nature of the violation and the need for effective enforcement than did the provisions of the original bill.

Section 7.—Section 7 provides that whenever the Secretary believes that a willful violation of the act has occurred, he shall inform the Attorney General and the Attorney General shall take such action as he deems appropriate. Customarily, of course, this would involve the institution of criminal proceedings in an appropriate U.S. district court.

Section 8.—Section 8 directs the Secretary of Agriculture, in administering the bill, to utilize, to the maximum extent practicable, the existing personnel and facilities of the Department of Agriculture. The committee hopes that the enforcement program established by this legislation will not require the hiring of a significant number of new employees by the Department or the acquisition of any new facilities. This section would also authorize the Secretary to utilize the officers of any State, with its consent and with or without reimbursement, to assist him in carrying out the provisions of the bill.

Section 9.—This section contains a general authorization for the Secretary of Agriculture to issue such rules and regulations as he deems necessary in order to carry out the provisions of the act.

Section 10.—A new section 10 was added to the bill by the committee in order to clarify the relationship of this legislation to State law. This section first emphasizes that the bill is not intended to preempt the laws of any State with respect to soring, unless the provisions of State law conflict with this bill and cannot be reconciled with it. In other words, after this legislation has been enacted a State will remain free to enact its own antisoring law and to enforce it. However, the language also makes clear the committee's intention that any State law which permits or condones soring is to be preempted by the bill.

Second, this new section should also adequately express the committee's intention that even if a State has an antisoring law and an enforcement program under that law, Federal officials would still be entirely free to enter the State and enforce the Federal law concurrently. Moreover, the committee is aware that a person who has shown or exhibited a sored horse or conducted a horse show in which a sored horse is shown or exhibited could be subject to penalties under both a

State and the Federal statute. The committee intends that these dual violations should exist and it values this arrangement because it will enable the Federal Government to take action when the penalties actually assessed by a State are inadequate to punish an offender or to effectively deter others from committing similar offenses. Nevertheless, if State enforcement does adequately serve these functions, the committee would not expect that an individual would normally be subject to additional Federal penalties.

Third, since judicial decisions with respect to the constitutionality of a dual prosecution under both State and Federal laws for similar offenses arising out of the same set of facts appear to be in a state of flux, the committee, without expressing any opinion on this area of the law, has attempted to anticipate the possible resolution of this question by including language which says that no State may undertake any enforcement action which would preclude the United States from enforcing the provisions of the bill against any person. In other words, if the judicial decisions continue to uphold the view that an individual may be penalized for a violation of both the Federal and a State antisoring law concurrently in both jurisdictions, this provision will have no effect on State action. But if in the future the courts should decide that once an individual has been prosecuted in one jurisdiction, the second jurisdiction will be precluded from bringing any enforcement action against that individual for a similar offense arising out of the same set of facts, this provision indicates the committee's intention that the Federal action should take priority. In those circumstances, a State would be prohibited from commencing an enforcement action unless the Federal Government had waived any interest in the case. And the committee would anticipate that such a waiver would be granted on a case-by-case basis in which the appropriate Federal official considered, among other factors, the vigor with which State officials had pursued earlier violations where a waiver had been granted.

The committee believes, however, that since nonwillful violations under this bill are subject to civil penalties, a future judicial decision which prohibits dual Federal-State criminal prosecutions for similar offenses arising out of the same fact situation might still permit the Federal Government to collect a civil penalty from an individual who has already been criminally prosecuted by a State. If this is the case, section 10 should have no effect on State enforcement actions dealing with nonwillful violations. But should the courts decide that the combination of both a Federal civil penalty action and a State criminal prosecution would be unconstitutional, then the committee's earlier comments on Federal priority would still prevail.

However, even if the courts should prohibit dual Federal-State criminal prosecutions but permit collection of a civil penalty in one jurisdiction after a criminal prosecution had taken place in another, the jurisdictional conflict would still exist with respect to willful violations. As mentioned earlier, in this situation the Federal criminal prosecution would take precedence over any State action. Absent a Federal waiver in a specific case, the State would be prohibited from acting. The committee realizes, however, that it may be difficult to determine initially whether a particular violation was committed willfully. Therefore, it would anticipate that if this confused jurisdictional situa-

tion should arise in the future, the Secretary of Agriculture, under the authority delegated to him under section 9, would issue regulations to help guide both State and Federal officials in determining when a possible offense should be regarded as being willful for the purpose of deciding which jurisdiction should initiate enforcement proceedings.

Section 11.—Section 11 provides that after the expiration of 30 calendar months following the date of enactment of this act, and every 24 calendar months thereafter, the Secretary of Agriculture is to submit to the Congress a report on the administration of the act, including a summary of enforcement and other actions taken thereunder together with such recommendations for legislative and other action as he deems appropriate. The committee would also anticipate that the Secretary would append to this report a compilation of States antisorning statutes, and that he would include in the report an analysis of the effectiveness with which the various State laws are being enforced and a specific discussion of Federal enforcement efforts in States with antisorning laws. In the event any of the jurisdictional problems discussed in this report in connection with the provisions of section 10 materialize, the committee also expects that the report would include a summary of the instances, if any, in which the Federal Government has waived its right to enforce this bill and a description of the penalties subsequently obtained by a State under its own statute.

Section 12.—Section 12 would authorize the appropriation of such sums, not to exceed \$100,000 annually, as may be necessary to carry out the provisions of the bill.

COSTS

S. 2543 would authorize the appropriations of not more than \$100,000 annually to carry out the provisions of the bill.

AGENCY COMMENTS

The following comments on S. 2543 were received from interested agencies.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., September 17, 1969.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate.

DEAR MR. CHAIRMAN: This is in reply to your letter of July 9, 1969, requesting a report on S. 2543. The bill is entitled "To protect interstate and foreign commerce by prohibiting the movement in such commerce of horses which are "sored," and for other purposes."

A horse is sored if, for the purpose of affecting its gait, a blistering agent has been applied internally or externally, or if burns, cuts, or lacerations have been inflicted on the horse, or if a chemical agent, or tacks, nails, or wedges have been used on the horse, or if any other method or device has been used on the horse, which may reasonably be expected to cause physical pain to the horse when moving or to cause extreme fear or distress to the horse. In administration of the bill, if enacted, we would consider that the presence of heat,

swelling, redness, or other evidence of inflammation or loss of function of any part of the horse is evidence of the existence of physical pain in the animal within the meaning of subsection 2(a) of the bill. The practice has been identified with, but is not necessarily limited to, the Tennessee walking horse. The purpose of soring is to accentuate the natural gait of the horse and produce a high action of the forefeet. Available information indicates that the practice of soring is conducted in most States where shows or exhibitions involving Tennessee walking horses are held.

Under the bill, it would be unlawful for any person (a) to ship, transport, or otherwise move, or deliver or receive for movement, in commerce, as defined in the bill, for the purpose of showing or exhibition, any horse which such person has reason to believe is sored; (b) to show or exhibit, or enter for the purpose of showing or exhibiting, in any horse show or exhibition, any horse which is sored if that horse or any other horse was moved to such show or exhibition in commerce; and (c) to conduct any horse show or exhibition in which there is shown or exhibited a horse which is sored, if any horse was moved to such show or exhibition in commerce.

For enforcement purposes, representatives of this Department would be authorized to make necessary inspections of any horses which are being moved, or have been moved, in commerce, as well as inspections at any horse show or exhibition within the United States to which any horse was moved in commerce. The owner or other person having custody of any such horse would be required to afford such representatives access to and opportunity to so inspect such horse. This Department would be authorized to prescribe regulations for the keeping of records by the person or persons in charge of any horse show or exhibition in this country and such records would be available for inspection and copying at all reasonable times. Criminal penalties would be prescribed for any violation of the bill. The Secretary of Agriculture would be authorized to utilize the officers and employees of any State, with its consent, in carrying out the provisions of the bill, and we would hope to rely heavily upon assistance from those States in which shows or exhibitions are held.

This Department has no objection to the enactment of S. 2543.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely,

J. PHIL CAMPBELL,
Under Secretary.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., September 16, 1969.

HON. WARREN G. MAGNUSON,
Chairman, Senate Committee on Commerce,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: This is in response to your request for the views of the Department of Justice on S. 2543, a bill to protect interstate and foreign commerce by prohibiting the movement in such commerce of horses which are "sored," and for other purposes.

If enacted, this bill would prohibit the interstate transportation of any horse which is "sored," i.e., one that has been maimed for the purpose of affecting its gait. In addition, this bill would prohibit the exhibition of such horses following their movement in interstate commerce, and would further prohibit the conducting of any horse show which included such horses among its exhibits. Any violation of this act would be punishable by a fine of not more than \$500 or imprisonment for not more than 6 months, or both.

As to the need for this type of legislation and the feasibility of the regulatory action authorized under it, the Department of Justice defers to the views of the regulatory agency which would be responsible for its administration, the Department of Agriculture.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

RICHARD G. KLEINDIENST,
Deputy Attorney General.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Washington, D.C. October 3, 1969.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your request of July 9, 1969, for a report on S. 2543, a bill to protect interstate and foreign commerce by prohibiting the movement in such commerce of horses which are "sored," and for other purposes.

The bill would prohibit the movement in commerce of horses which have been subjected to certain treatments which inflict pain upon, or cause distress to, the animal in order to alter its gait, presumably for show purposes.

Such treatments include the application of blistering treatments internally or externally; the infliction of burns, cuts, or lacerations; the use of chemical agents, tacks, nails, or wedges; or any other method or device intended to result in pain or cause distress to the horse while it is moving.

The bill provides that the Secretary of Agriculture is authorized to make inspections of horses which are being moved, or have been moved in commerce, including inspections of horses at shows or exhibitions. Persons in charge of horse shows would be required to keep such records as the Secretary of Agriculture by regulation requires for the purpose of enforcing this act.

The provisions of S. 2543 would not impinge upon any present program activities or functions of the Department of Health, Education, and Welfare. We therefore defer to the views of the Department of Agriculture on the need for and desirability of this proposed legislation.

We are advised by the Bureau of the Budget that there is no objection to the presentation of this report from the standpoint of the administration's program.

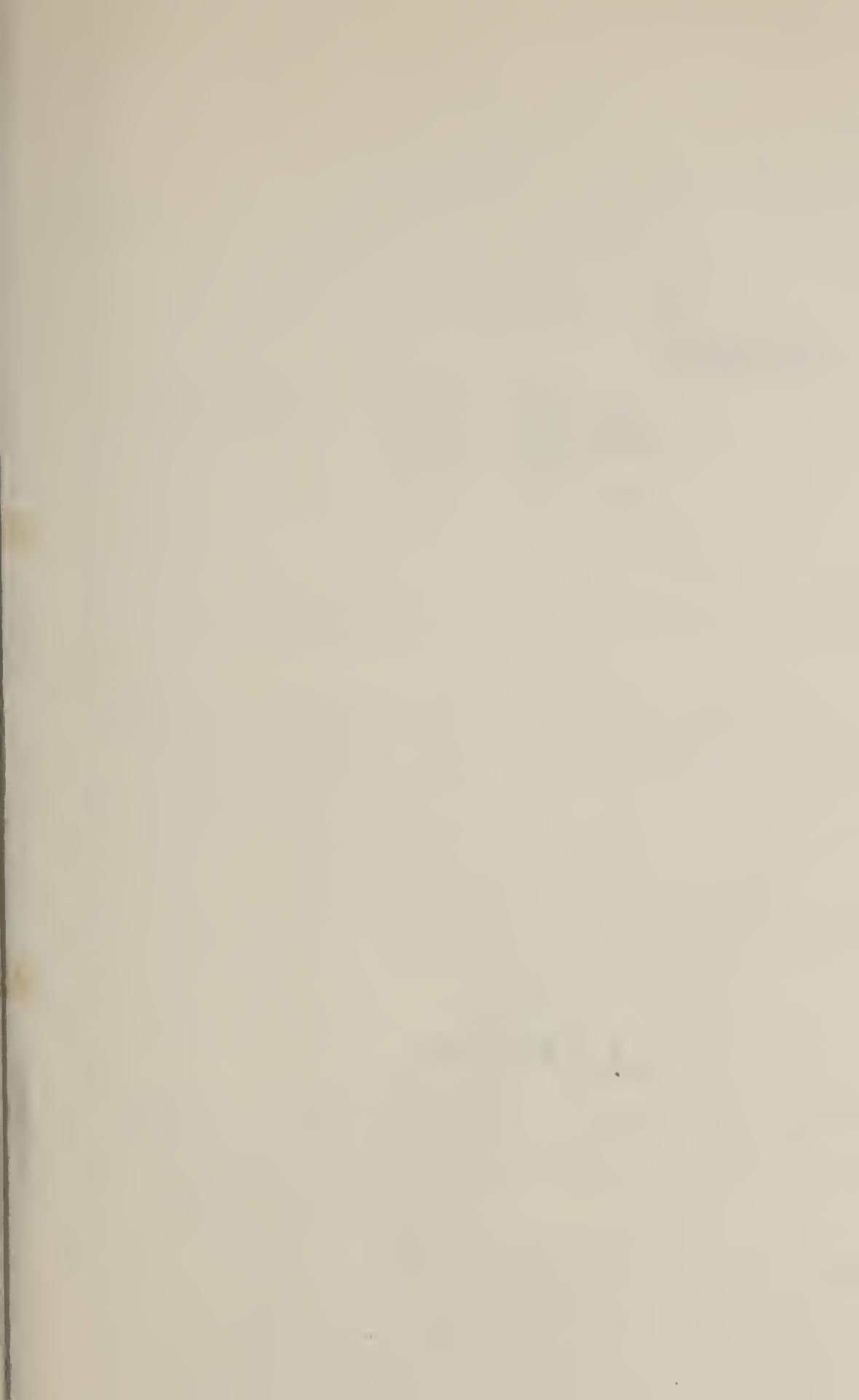
Sincerely,

ROBERT H. FINCH,
Secretary.

CHANGES IN EXISTING LAW

This bill makes no change in existing law.

○



Calendar No. 606

91ST CONGRESS
1ST SESSION

S. 2543

[Report No. 91-609]

IN THE SENATE OF THE UNITED STATES

JULY 2, 1969

Mr. TYDINGS (for himself, Mr. CASE, Mr. GOODELL, Mr. GRAVEL, Mr. MOSS, Mr. NELSON, Mr. PELL, Mr. PROXMIRE, Mr. RANDOLPH, Mr. SCOTT, Mr. SPONG, Mr. THURMOND, Mr. YARBOROUGH, and Mr. YOUNG of Ohio) introduced the following bill; which was read twice and referred to the Committee on Commerce

DECEMBER 15, 1969

Reported by Mr. MAGNUSON, with amendments

[Omit the part struck through and insert the part printed in italic]

A BILL

To protect interstate and foreign commerce by prohibiting the movement in such commerce of horses which are "sored", and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Horse Protection Act of
4 1969".

5 SEC. 2. (a) A horse shall be considered to be sored if,
6 for the purpose of affecting its gait, a blistering agent has

1 been applied internally or externally to any of the legs,
 2 ankles, feet, or other parts of the horse, or if burns, cuts, or
 3 lacerations have been inflicted on the horse, or if a chemical
 4 agent, or tacks, nails, or wedges have been used on the horse,
 5 or if any other method or device has been used on the horse,
 6 including, but not limited to chains or boots, which may rea-
 7 sonably be expected currently ~~(1)~~ to result in physical pain
 8 to the horse when walking, trotting, or otherwise moving, or
 9 ~~(2)~~ to cause extreme fear or distress to the horse.

10 *SEC. 2. (a) A horse shall be considered to be sored if,*
 11 *for the purpose of affecting its gait—*

12 *(1) a blistering agent has been applied internally or*
 13 *externally to any of the legs, ankles, feet, or other parts*
 14 *of the horse;*

15 *(2) burns, cuts, or lacerations have been inflicted on*
 16 *the horse;*

17 *(3) a chemical agent, or tacks, nails, or wedges have*
 18 *been used on the horse; or*

19 *(4) any other method or device has been used on the*
 20 *horse, including, but not limited to, chains or boots;*
 21 *which may reasonably be expected (A) to result in physical*
 22 *pain to the horse when walking, trotting, or otherwise moving,*
 23 *(B) to cause extreme fear or distress to the horse, or (C) to*
 24 *cause inflammation.*

25 (i) As used in this Act, the term “commerce” means

1 commerce between a point in any State or possession of the
2 United States (including the District of Columbia and the
3 Commonwealth of Puerto Rico) and any point outside
4 thereof, or between points within the same State or posses-
5 sion of the United States (including the District of Columbia
6 and the Commonwealth of Puerto Rico) but through any
7 place outside thereof, or within the District of Columbia, or
8 from any foreign country to any point within the United
9 States.

10 SEC. 3. The Congress hereby finds (1) that the practice
11 of soring horses for the purposes of affecting their natural
12 gait is cruel and inhumane treatment of such animals; (2)
13 that the movement of sored horses in commerce adversely
14 affects and burdens *such* commerce; *and* (3) that horses
15 which are sored compete unfairly with horses moved in com-
16 merce which are not sored.

17 SEC. 4. (a) It shall be unlawful for any person to ship,
18 transport, or otherwise move, or deliver or receive for move-
19 ment, in commerce, for the purpose of showing or exhibition,
20 any horse which such person has reason to believe is sored.

21 (b) It shall be unlawful for any person to show or
22 exhibit, or enter for the purpose of showing or exhibiting, in
23 any horse show or exhibition, any horse which is sored if
24 that horse or any other horse was moved to such show or
25 exhibition in commerce.

1 (c) It shall be unlawful for any person to conduct any
 2 horse show or exhibition in which there is shown or exhibited
 3 a horse which is sores, if any horse was moved to such show
 4 or exhibition in ~~commerce~~. *commerce, unless such person can*
 5 *establish that he took all reasonable precautions to prevent the*
 6 *showing or exhibiting of such sores horse.*

7 SEC. 5. (a) Any representative of the Secretary of
 8 Agriculture is authorized to make such inspections of any
 9 horses which are being moved, or have been moved, in com-
 10 merce and to make such inspections of any horses at any
 11 horse show or exhibition within the United States to which
 12 any horse was moved in commerce, as he deems necessary
 13 for the effective enforcement of this Act, and the owner or
 14 other person having custody of any such horse shall afford
 15 such representative access to and opportunity to so inspect
 16 such horse.

17 (b) The person or persons in charge of any horse show
 18 or exhibition within the United States, *or such other per-*
 19 *son or persons as the Secretary of Agriculture (herein-*
 20 *after referred to in this Act as the "Secretary") may by regu-*
 21 *lation designate, shall keep such records as the Secretary of*
 22 ~~Agriculture~~ *may by regulation prescribe. in order to enable*
 23 ~~the representatives of said Secretary to determine whether~~
 24 ~~any horses were moved to or from such show or exhibition~~
 25 ~~in commerce, the identity of the owner or exhibitor of any~~

1 horse at the show or exhibition, and other facts necessary for
 2 the effective enforcement of this Act, and the The person or
 3 persons in charge of any horse show or exhibition, or such
 4 other person or persons as the Secretary may by regulation
 5 designate, shall afford the representatives of the Secretary of
 6 Agriculture access to and opportunity to inspect and copy
 7 such records at all reasonable times.

8 SEC. 6. Any person who violates any provision of this
 9 Act shall be fined not more than \$500 or imprisoned not
 10 more than six months, or both.

11 SEC. 6. (a) Any person who violates any provision of
 12 this Act or any regulation issued thereunder, other than a vio-
 13 lation the penalty for which is prescribed by subsection (b) of
 14 this section, shall be assessed a civil penalty by the Secretary
 15 of not more than \$1,000 for each such violation. No penalty
 16 shall be assessed unless such person is given notice and oppor-
 17 tunity for a hearing with respect to such violation. Each viola-
 18 tion shall be a separate offense. Any such civil penalty may be
 19 compromised by the Secretary. Upon any failure to pay the
 20 penalty assessed under this subsection, the Secretary shall re-
 21 quest the Attorney General to institute a civil action in a
 22 district court of the United States for any district in which
 23 such person is found or resides or transacts business to collect
 24 the penalty and such court shall have jurisdiction to hear and
 25 decide any such action.

1 (b) Any person who willfully violates any provision of
2 this Act or any regulation issued thereunder shall be fined
3 not more than \$2,000 or imprisoned not more than six months,
4 or both.

5 SEC. 7. Whenever the Secretary of ~~Agriculture~~ believes
6 that a *willful* violation of this Act has occurred and that
7 prosecution is needed to obtain compliance with the Act, he
8 shall inform the Attorney General and the Attorney General
9 shall take such action with respect to such matter as he deems
10 appropriate.

11 SEC. 8. The Secretary of ~~Agriculture~~ shall, in carrying
12 out the provisions of this Act, *shall utilize*, to the maximum
13 extent practicable, ~~utilize~~ the existing personnel and facilities
14 of the Department of Agriculture. The Secretary of ~~Agricul-~~
15 ~~ture~~ is further authorized to utilize the officers and employees
16 of any State, with its consent, *and with or without reimburse-*
17 *ment*, to assist him in carrying out the provisions of this Act.

18 SEC. 9. The Secretary of ~~Agriculture~~ is authorized to
19 issue such rules and regulations as he deems necessary to
20 carry out the provisions of this Act.

21 SEC. 10. No provision of this Act shall be construed as
22 indicating an intent on the part of the Congress to occupy
23 the field in which such provision operates to the exclusion
24 of the law of any State on the same subject matter, unless
25 there is a direct and positive conflict between such provision

1 *and the law of the State so that the two cannot be reconciled*
 2 *or consistently stand together. Nor shall any provision of this*
 3 *Act be construed to exclude the Federal Government from*
 4 *enforcing the provision of this Act within any State, whether*
 5 *or not such State has enacted legislation on the same subject,*
 6 *it being the intent of the Congress to establish concurrent*
 7 *jurisdiction with the States over such subject matter. In no*
 8 *case shall any such State take any action pursuant to this*
 9 *section involving a violation of any such law of that State*
 10 *which would preclude the United States from enforcing the*
 11 *provisions of this Act against any person.*

12 *SEC. 11. On or before the expiration of thirty calendar*
 13 *months following the date of enactment of this Act, and every*
 14 *twenty-four-calendar-month period thereafter, the Secretary*
 15 *shall submit to the Congress a report upon the matters cov-*
 16 *ered by this Act, including enforcement and other actions*
 17 *taken thereunder, together with such recommendations for leg-*
 18 *islative and other action as he deems appropriate.*

19 *SEC. ~~10~~ 12. There are hereby authorized to be appro-*
 20 *priated such sums, not to exceed \$100,000 annually, as may*
 21 *be necessary to carry out the provisions of this Act.*

Amend the title so as to read: "A bill to prohibit the movement in interstate or foreign commerce of horses which are 'sored', and for other purposes."

91ST CONGRESS
1ST SESSION

S. 2543

[Report No. 91-609]

A BILL

To protect interstate and foreign commerce by prohibiting the movement in such commerce of horses which are "sored", and for other purposes.

By Mr. TYDINGS, Mr. CASE, Mr. GOODELL, Mr. GRAVEL, Mr. MOSS, Mr. NELSON, Mr. PEIL, Mr. PROXMIRE, Mr. RANDOLPH, Mr. SCOTT, Mr. SPONG, Mr. THURMOND, Mr. YARBOROUGH, and Mr. YOUNG of Ohio

JULY 2, 1969

Read twice and referred to the Committee on
Commerce

DECEMBER 15, 1969

Reported with amendments

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

For actions of December 18, 1969
91st-1st No. 211

OFFICE OF BUDGET AND FINANCE
(FOR INFORMATION ONLY;
NOT TO BE QUOTED OR CITED)

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HIGHLIGHTS: House committee reported supergrade bill. Senate passed supplemental appropriations bill. Senate committee reported migrant workers health bill. Senate passed foreign aid appropriations bill.

SENATE

1. SORED WALKING HORSES. Passed with committee amendments S. 2543, the bill to prohibit the movement in interstate and foreign commerce of sores Tennessee walking horses. pp. S17077-81
2. APPROPRIATIONS. Passed H. R. 15149, the foreign aid bill by 55 yeas to 35 nays, adopting all committee amendments, and the McGee amendment reducing by \$25 million the funds for military assistance. pp. S17083-88, 17096-107, 17109, 17112-23
Passed H. R. 15209, the supplemental appropriations bill for fiscal year 1970, after adopting all committee amendments, by 74 to 0. pp. S17124-65, 17186-221
Both Houses agreed to the conference report on H. R. 15090, the Defense appropriations bill for fiscal 1970 (pp. H12706-8, S17181-6). This bill will now be sent to the President.
3. MORTGAGE CREDIT. Conferees were appointed on S. 2577, to provide additional mortgage credit. pp. S17107-09
4. CIVIL SERVICE. Agreed to House amendment to H. R. 9233, to promote the efficient and effective use of the revolving fund of the Civil Service Commission. This bill will now be sent to the President. p. S17161
5. MIGRANT WORKER. Sen. Yarborough reported S. 2660, to extend the Migrant Health Act for three years, from Committee on Labor and Public Welfare (S. Rept. 91-618) p. S1722
6. MEXICAN-AMERICAN AFFAIRS. Concurred in House amendments to S. 740, to establish the Inter-Agency Committee on Mexican-American Affairs; this bill will now be sent to the President. pp. S17127-28
7. FEDERAL EMPLOYEES' PAY. Conferees were appointed on H. R. 13000, the proposed Federal Salary Comparability Act of 1969. p. S17147

HOUSE

8. APPROPRIATIONS. Conferees were appointed on H. R. 14794, making appropriations for the Department of Transportation and related agencies, 1970 (p. H12689); and received the conference report (H. Rept. 91-771) (pp. H12782-3).
Conferees were appointed on H. R. 13111, making appropriations for Labor, HEW, and related agencies, 1970. Senate conferees have been appointed. pp. H12689-90, H12720-24
Received the conference report on S. 2577, to provide additional mortgage credit (H. Rept. 91-769). pp. H12783-6
Conferees were appointed on H. R. 15149, foreign assistance and related programs appropriations, 1970. p. H12736
Received the conference report on H. R. 14751, making appropriations for military construction for the Department of Defense for fiscal year 1970. pp. H12780-2

Senate

THURSDAY, DECEMBER 18, 1969

(Legislative day of Tuesday, December 16, 1969)

(Legislative day of Tuesday, December 16, 1969)

The Senate met at 9 o'clock a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. METCALF).

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Thou creator and restorer of life, we thank Thee for Thy mercies which are new every morning. We thank Thee for work to do and that it may be done for others in this place. Enable Thy servants here, upon whose judgment rest solemn responsibilities of public welfare, to keep ever before them the vision of Thy higher kingdom. Renew them in weariness, reinvigorate them in fatigue, and give them inner compensation for long, strenuous, and confining hours. Help them to bear the fret of care, the sting of criticism, and unapplauded toil. May the highest truth of Christmas illuminate every duty, and may they be given strength to follow the One who came to set men free. In His name we pray. Amen.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Arizona is recognized for not to exceed 20 minutes.

Mr. MANSFIELD. Mr. President, will the Senator yield to me for 1 minute, without losing any time or his right to the floor?

Mr. GOLDWATER. I yield.

Mr. MANSFIELD. I thank the distinguished Senator from Arizona, and I assure him that if he needs a few more minutes, the time will be available.

Mr. GOLDWATER. I thank the Senator.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Wednesday, December 17, 1969, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

HORSE PROTECTION ACT OF 1969

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 606, S. 2543.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The BILL CLERK. A bill (S. 2543) to protect interstate and foreign commerce by prohibiting the movement in such commerce of horses which are "sored," and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce with amendments, on page 1, after the enacting clause, strike out:

SEC. 2. (a) A horse shall be considered to be sored if, for the purpose of affecting its gait, a blistering agent has been applied internally or externally to any of the legs, ankles, feet, or other parts of the horse, or if burns, cuts, or lacerations have been inflicted on the horse, or if a chemical agent, or tacks, nails, or wedges have been used on the horse, or if any other method or device has been used on the horse, including, but not limited to chains or boots, which may reasonably be expected currently (1) to result in physical pain to the horse when walking, trotting, or otherwise moving, or (2) to cause extreme fear or distress to the horse.

And, in lieu thereof, insert:

SEC. 2. (a) A horse shall be considered to be sored if, for the purpose of affecting its gait—

(1) a blistering agent has been applied internally or externally to any of the legs, ankles, feet, or other parts of the horse;

(2) burns, cuts, or lacerations have been inflicted on the horse;

(3) a chemical agent, or tacks, nails, or wedges have been used on the horse; or

(4) any other method or device has been used on the horse, including, but not limited to chains or boots;

which may reasonably be expected (A) to result in physical pain to the horse when walking, trotting, or otherwise moving, (B) to cause extreme fear or distress to the horse, or (C) to cause inflammation.

On page 3, line 14, after the word "burdens", insert "such"; in the same line, after the word "commerce," insert "and"; on page 4, line 4, after the word "in", strike out "commerce." and insert "commerce, unless such person can establish that he took all reasonable precautions to prevent the showing or exhibiting of such sored horse"; in line 18, after the word "States," insert "or such other person or persons as the Secretary of Agriculture (hereinafter referred to in this act as the 'Secretary') may by regulation designate"; in line 21, after the word "Secretary", strike out "of Agriculture may by regulation prescribe. in order to enable the representatives of said Secretary to determine whether any horses were moved to or from such show or exhibition in commerce, the identity of the owner or exhibitor of any horse at the show or exhibition, and other facts necessary for the effective enforcement of this Act, and the"; on page 5 line 2, after the amendment just stated, insert "The"; in line 3, after the word "exhibition", insert "or such other person or persons as the Secretary may by regulation designate"; in

line 5, after the word "Secretary", strike out "of Agriculture"; after line 7, strike out:

SEC. 6. Any person who violates any provision of this Act shall be fined not more than \$500 or imprisoned not more than six months, or both.

And, in lieu thereof, insert:

SEC. 6. (a) Any person who violates any provision of this Act or any regulation issued thereunder, other than a violation the penalty for which is prescribed by subsection (b) of this section, shall be assessed a civil penalty by the Secretary of not more than \$1,000 for each such violation. No penalty shall be assessed unless such person is given notice and opportunity for a hearing with respect to such violation. Each violation shall be a separate offense. Any such civil penalty may be compromised by the Secretary. Upon any failure to pay the penalty assessed under this subsection, the Secretary shall request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found or resides or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action.

(b) Any person who willfully violates any provision of this Act or any regulation issued thereunder shall be fined not more than \$2,000 or imprisoned not more than six months, or both.

On page 6, line 5, after the word "Secretary", strike out "of Agriculture"; in line 6, after the word "a", insert "willful"; in line 11, after the word "Secretary", strike out "of Agriculture shall"; in line 12, after the word "Act," insert "shall utilize"; in line 13, after the word "practicable", strike out "utilize"; in line 14, after the word "Secretary", strike out "of Agriculture"; in line 16, after the word "consent", insert "and with or without reimbursement"; in line 18, after the word "Secretary", strike out "of Agriculture"; after line 20, insert a new section, as follows:

SEC. 10. No provision of this Act shall be construed as indicating an intent on the part of the Congress to occupy the field in which such provision operates to the exclusion of the law of any State on the same subject matter, unless there is a direct and positive conflict between such provision and the law of the State so that the two cannot be reconciled or consistently stand together. Nor shall any provision of this Act be construed to exclude the Federal Government from enforcing the provision of this Act within any State, whether or not such State has enacted legislation on the same subject, it being the intent of the Congress to establish concurrent jurisdiction with the States over such subject matter. In no case shall any such State take any action pursuant to this section involving a violation of any such law of that State which would preclude the United States from enforcing the provisions of this Act against any person.

On page 7, after line 11, insert a new section, as follows:

SEC. 11. On or before the expiration of thirty calendar months following the date of enactment of this Act, and every twenty-four-calendar-month period thereafter, the Secretary shall submit to the Congress a report upon the matters covered by this Act, including enforcement and other actions taken thereunder, together with such recommendations for legislative and other action as he deems appropriate.

At the beginning of line 19, change the section number from "10," to "12"; and in line 20, after the word "sums" insert "not to exceed \$100,000 annually,"; so as to make the bill read:

S. 2543

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Horse Protection Act of 1969".

SEC. 2. (a) A horse shall be considered to be sored, for the purpose of affecting its gait—

(1) a blistering agent has been applied internally or externally to any of the legs, ankles, feet, or other parts of the horse;

(2) burns, cuts, or lacerations have been inflicted on the horse;

(3) a chemical agent, or tacks, nails, or wedges have been used on the horse; or

(4) any other method or device has been used on the horse, including, but not limited to, chains or boots;

which may reasonably be expected (A) to result in physical pain to the horse when walking, trotting, or otherwise moving, (B) to cause extreme fear or distress to the horse, or (C) to cause inflammation.

(b) As used in this Act, the term "commerce" means commerce between a point in any State or possession of the United States (including the District of Columbia and the Commonwealth of Puerto Rico) and any point outside thereof, or between points within the same State or possession of the United States (including the District of Columbia and the Commonwealth of Puerto Rico) but through any place outside thereof, or within the District of Columbia, or from any foreign country to any point within the United States.

SEC. 3. The Congress hereby finds (1) that the practice of soring horses for the purposes of affecting their natural gait is cruel and inhumane treatment of such animals; (2) that the movement of sored horses in commerce adversely affects and burdens such commerce; and (3) that horses which are sored compete unfairly with horses moved in commerce which are not sored.

SEC. 4. (a) It shall be unlawful for any person to ship, transport, or otherwise move, or deliver or receive for movement, in commerce, for the purpose of showing or exhibition, any horse which such person has reason to believe is sored.

(b) It shall be unlawful for any person to show or exhibit, or enter for the purpose of showing or exhibiting, in any horse show or exhibition, any horse which is sored if that horse or any other horse was moved to such show or exhibition in commerce.

(c) It shall be unlawful for any person to conduct any horse show or exhibition in which there is shown or exhibited a horse which is sored, if any horse was moved to such show or exhibition in commerce, unless such person can establish that he took all reasonable precautions to prevent the showing or exhibiting of such sored horse.

SEC. 5. (a) Any representative of the Secretary of Agriculture is authorized to make such inspections of any horses which are being moved, or have been moved, in commerce and to make such inspections of any horses at any horse show or exhibition within the United States to which any horse was moved in commerce, as he deems necessary for the effective enforcement of this Act, and the owner or other person having custody of any

such horse shall afford such representative access to and opportunity to so inspect such horse.

(b) The person or persons in charge of any horse show or exhibition within the United States, or such other person or persons as the Secretary of Agriculture (hereinafter referred to in this Act as the "Secretary") may by regulation designate, shall keep such records as the Secretary may by regulation prescribe. The person or persons in charge of any horse show or exhibition, or such other person or persons as the Secretary may by regulation designate, shall afford the representatives of the Secretary access to and opportunity to inspect and copy such records at all reasonable times.

SEC. 6. (a) Any person who violates any provision of this Act or any regulation issued thereunder, other than a violation the penalty for which is prescribed by subsection (b) of the section, shall be assessed a civil penalty by the Secretary of not more than \$1,000 for each such violation. No penalty shall be assessed unless such person is given notice and opportunity for a hearing with respect to such violation. Each violation shall be a separate offense. Any such civil penalty may be compromised by the Secretary. Upon any failure to pay the penalty assessed under this subsection, the Secretary shall request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found or resides or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action.

(b) Any person who willfully violates any provision of this Act or any regulation issued thereunder shall be fined not more than \$2,000 or imprisoned not more than six months, or both.

SEC. 7. Whenever the Secretary believes that a willful violation of this Act has occurred and that prosecution is needed to obtain compliance with the Act, he shall inform the Attorney General and the Attorney General shall take such action with respect to such matter as he deems appropriate.

SEC. 8. The Secretary in carrying out the provisions of this Act, shall utilize, to the maximum extent practicable, the existing personnel and facilities of the Department of Agriculture. The Secretary is further authorized to utilize the officers and employees of any State, with its consent, and with or without reimbursement, to assist him in carrying out the provisions of this Act.

SEC. 9. The Secretary is authorized to issue such rules and regulations as he deems necessary to carry out the provisions of this Act.

SEC. 10. No provision of this Act shall be construed as indicating an intent on the part of the Congress to occupy the field in which such provision operates to the exclusion of the law of any State on the same subject matter, unless there is a direct and positive conflict between such provision and the law of the State so that the two cannot be reconciled or consistently stand together. Nor shall any provision of this Act be construed to exclude the Federal Government from enforcing the provision of this Act within any State, whether or not such State has enacted legislation on the same subject, it being the intent of the Congress to establish concurrent jurisdiction with the States over such subject matter. In no case shall any such State take any action pursuant to this section involving a violation of any such law of that State which would preclude the United States from enforcing the provisions of this Act against any person.

SEC. 11. On or before the expiration of thirty calendar months following the date of enactment of this Act, and every twenty-four-calendar-month period thereafter, the Secretary shall submit to the Congress a report upon the matters covered by this Act, including enforcement and other actions taken thereunder, together with such rec-

ommendations for legislative and other action as he deems appropriate.

SEC. 12. There are hereby authorized to be appropriated such sums, not to exceed \$100,000 annually, as may be necessary to carry out the provisions of this Act.

Amend the title so as to read: "A bill to prohibit the movement in interstate or foreign commerce of horses which are 'sored', and for other purposes."

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-609), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

S. 2543, the Horse Protection Act of 1969, is designed to end the inhumane practice of deliberately making sore the feet of Tennessee walking horses in order to alter their natural gait. It would do so by prohibiting the shipment of any horse in commerce, for showing or exhibition, which a person has reason to believe is sored; by making unlawful the exhibiting of a sored horse in any horse show or exhibition in which that horse or any other horse was moved in commerce; and by prohibiting the holding of any horse show in which a sored horse is exhibited if any of the horses in that show were moved in commerce.

NEED

The Tennessee walking horse is a magnificent animal, distinguished by its proud, high skipping gait or "walk." As a class Tennessee walkers have become exceedingly popular and now number approximately 25,000.

The horse's distinctive "walk" may be achieved through patient, careful training and is the result of both the trainers' skill and the horse's natural breeding. Unfortunately, however, it was discovered about 20 years ago that the "walk" could also be created artificially. If the front feet of the horse were deliberately made sore, the intense pain which the animal suffered when placing his forefeet on the ground would cause him to lift them up quickly and thrust them forward, reproducing exactly the desired gait.

This soring is usually done by applying a blistering agent, such as oil of mustard, to the pastern area of the horse's leg and by wrapping this area with chains or metal rollers. Then, during a show, the sore is covered by a boot, used ostensibly to protect the horse's foreleg, but now valued because it rubs against the sore and heightens the pain even further.

The soring may also be accomplished in several other ways—nails, wedges, or even injections are sometimes used—but the effect is still the same. The "walk," with its handsome stride—or "big lick" as it is known among walking horse enthusiasts—is achieved cheaply, without the long and difficult training period. It can make a mediocre horse perform like a champion.

That this method of producing the "big lick" is a particularly cruel and inhumane practice does not appear to matter to walking horse owners and trainers. With increasing frequency they have "sored" horses in order to achieve the desired gait and win the blue ribbon. The result has been that many of these animals have been cruelly mistreated, and persons who refuse to sore their horses have been faced with a difficult dilemma: either they must forgo most opportunities to compete successfully in horse shows, or they must devote their attentions to a different breed of horse. Moreover, the practice of soring, besides inflicting great pain on the individual horse, may seriously harm the breed itself. Because Tennessee walking horse champions are particularly

valuable as studs, if a champion was created by means of soring, that practice may actually weaken, over a period of time, the breed's natural ability to "walk" in its distinctive fashion.

This bill should help end the unnecessary and inhumane practice of soring horses—something the Tennessee walking horse exhibitors have not done by themselves. By making unlawful the showing or exhibition of sored horses and imposing significant penalties for violations, the bill, in its practical effect, will make it impossible for persons to show sored horses in nearly all horse shows. This denial of the opportunity to win ribbons should destroy the incentive which presently exists for owners and trainers to painfully mistreat these magnificent animals.

PROVISIONS

There follows a section-by-section summary of the provisions of S. 2543, and a discussion of the committee's interpretation of these various provisions where appropriate.

Section 1.—Section 1 of the bill contains its short title: the Horse Protection Act of 1969.

Section 2.—Section 2 of the bill defines the term "commerce" and describes what is meant by the term "soring." It states that a horse shall be considered to be sored if, for the purpose of affecting its gait, a blistering agent is applied internally or externally to any of the legs, ankles, feet or other parts of the horse; burns, cuts, or lacerations have been inflicted on the horse; a chemical agent or tacks, nails, or wedges have been used on the horse; or any other method or device has been used on the horse, including, but not limited to, chains or boots; which may reasonably be expected either to result in physical pain to the horse when walking, trotting, or otherwise moving; to cause extreme fear or distress to the horse; or to cause inflammation. The committee would point out that not only must one of these soring techniques produce physical pain to the horse, cause extreme fear or distress to the animal, or cause inflammation, but it must also be used for the purpose of affecting its gait. In addition, the committee would emphasize that the secretary is to exercise his discretion in interpreting this definition so as not to apply it to beneficial therapeutic treatment by a veterinarian which is designed to relieve pain or lameness or to restore a lame or disabled horse's normal gait.

Section 3.—Section 3 of the bill contains the congressional finding that the soring of horses for the purpose of affecting their natural gait is a cruel and inhumane practice, that the movement of sored horses in commerce adversely affects and burdens such commerce, and that horses which are sored compete unfairly with horses that are moved in commerce which are not sored.

Section 4.—Section 4 set forth some of the violations of the bill. It makes it unlawful for any person to ship, transport or otherwise move, or to deliver or receive for movement, in commerce, for the purpose of showing or exhibition, any horse which such person has reason to believe is sored. It also makes unlawful the showing or exhibiting of a sored horse in any horse show or exhibition in which that horse or any other horse was moved to such show or exhibition in commerce. Finally it makes it unlawful for any person to conduct a horse show or exhibition in which there is shown or exhibited a horse which is sored, if any horse was moved to such show or exhibition in commerce, unless such person can establish that he took all reasonable precautions to prevent the showing or exhibiting of the sored horse.

It will be noted that violations are centered upon the horse show rather than on the individual horse which is shipped interstate. The reason for this policy is twofold. It will allow the Department of Agriculture to ad-

minister the law without unreasonable burden, and it focuses upon the principal institution—the show or exhibition—which serves to perpetuate the practice of soring. Thus the bill places responsibility on the persons conducting a horse show, as well as on those who participate in it, to make sure that there is compliance with the law.

However since it would be unfair to impose liability upon an individual who is conducting a horse show in which a sored horse happens to be exhibited after he has made a conscientious and concerted effort to see that this does not occur the bill provides that such a person may escape liability once he establishes that he took all reasonable precautions to prevent the showing or exhibiting of the sored horse. The Committee intends that the term "reasonable precautions" will be construed to include at the minimum the examination of each horse to be exhibited by one or more qualified independent veterinarians as the horses enter the exhibition area or shortly before they are actually exhibited.

Section 5.—In order to facilitate the effective enforcement of the bill subsection 5(a) would authorize any representative of the Secretary of Agriculture to inspect horses which are being moved or have moved in commerce as well as horses which are at any horse show or exhibition within the United States if any horse in such show or exhibition was moved in commerce. The subsection further provides that the owner or other person having custody of any such horse shall afford such representative access to the horse and an opportunity to inspect it. A refusal to permit such inspection would constitute a violation of the bill and would expose an individual to the penalties established in section 6.

Subsection 5(b) provides that the person or persons in charge of any horse show or exhibition within the United States, or such other persons as the Secretary of Agriculture may by regulation designate, shall keep such records as the Secretary may by regulation prescribe. It also provides that the person or persons in charge of the horse show or exhibition, or such other person or persons the Secretary may by regulation designate, shall afford the representatives of the Secretary access to the records and an opportunity to inspect and copy them at all reasonable times. Again a failure to keep the required records or to provide access to them would represent a violation of the bill and would expose an individual to the penalties established in section 6.

Since the committee believed that it could not anticipate all of the problems which might arise in the administration of the bill, it amended the original language of subsection 5(b) in order to provide the Secretary with a more general rulemaking authority. Nevertheless, the committee would anticipate that the Secretary's initial regulations will include a requirement that records be kept which will enable representatives of the Department of Agriculture to determine whether any horses were moved to or from a show or exhibition in commerce. In addition, the initial regulations should require that records be kept which will assist enforcement officials in ascertaining the name and address of the owner or exhibitor of any horse present at the show or exhibition, and which will help the Department's representatives to determine the identity and qualifications of any veterinarians who examined the identity and qualifications of any veterinarians who examined the horses at the show or exhibition and the approximate time at which such horses were examined.

Section 6.—Subsection 6(a) of the bill provides that any person who violates any provision of the act or any regulation issued thereunder, other than a violation subject to a criminal penalty under subsection 6(b), shall be assessed a civil penalty by the Secre-

tary of not more than \$1,000 for each violation. This subsection further provides that no penalty shall be assessed unless the person is given notice and opportunity for a hearing with respect to the violation. The subsection also gives the Secretary the authority to compromise any civil penalty. Should any person fail to pay the civil penalty which the Secretary has assessed, the bill provides that the Secretary shall request the Attorney General to institute a civil action in the U.S. district court to collect the penalty.

Subsection 6(b) of the bill provides that if any person willfully violates any provision of the act, or any regulation issued thereunder, he shall be fined not more than \$2,000 or imprisoned for not more than 6 months or both.

The present section 6 of the bill represents a marked revision of the enforcement section of the original bill which provided only criminal penalties. The committee decided to establish civil penalties for nonwillful violations because it believed that this would produce more frequent enforcement efforts than would imposition of a criminal penalty for a first violation. At the same time, however, it retained the criminal penalties for willful violations, anticipating that second or third time violators would customarily be subject to criminal prosecution. And since persons acquitted in a criminal proceeding could still be subject to a civil penalty for a nonwillful violation under subsection 6(a), the committee felt that it had adopted a more flexible and effective enforcement system.

In addition, the committee increased the maximum penalties which could be recovered under the bill from \$500 to \$1,000 for nonwillful violations and \$2,000 for willful violations. It did so in order to provide a more realistic deterrent to persons who might consider violating the bill, for the committee learned through the hearings that the rewards from soring—measured in terms of stud fees for a champion—could easily exceed \$100,000. Thus, both the size of the penalties and the method of enforcement provided in the amended section 6 should bear a more reasonable relationship to the nature of the violation and the need for effective enforcement than did the provisions of the original bill.

Section 7.—Section 7 provides that whenever the Secretary believes that a willful violation of the act has occurred, he shall inform the Attorney General and the Attorney General shall take such action as he deems appropriate. Customarily, of course, this would involve the institution of criminal proceedings in an appropriate U.S. district court.

Section 8.—Section 8 directs the Secretary of Agriculture, in administering the bill, to utilize, to the maximum extent practicable, the existing personnel and facilities of the Department of Agriculture. The committee hopes that the enforcement program established by this legislation will not require the hiring of a significant number of new employees by the Department or the acquisition of any new facilities. This section would also authorize the Secretary to utilize the officers of any State, with its consent and with or without reimbursement, to assist him in carrying out the provisions of the bill.

Section 9.—This section contains a general authorization for the Secretary of Agriculture to issue such rules and regulations as he deems necessary in order to carry out the provisions of the act.

Section 10.—A new section 10 was added to the bill by the committee in order to clarify the relationship of this legislation to State law. This section first emphasizes that the bill is not intended to preempt the laws of any State with respect to soring, unless the provisions of State law conflict with this bill and cannot be reconciled with it. In other

words, after this legislation has been enacted a State will remain free to enact its own antisoring law and to enforce it. However, the language also makes clear the committee's intention that any State law which permits or condones soring is to be preempted by the bill.

Second, this new section should also adequately express the committee's intention that even if a State has an antisoring law and an enforcement program under that law, Federal officials would still be entirely free to enter the State and enforce the Federal law concurrently. Moreover, the committee is aware that a person who has shown or exhibited a sored horse or conducted a horse show in which a sored horse is shown or exhibited could be subject to penalties under both a State and the Federal statute. The committee intends that these dual violations should exist and it values this arrangement because it will enable the Federal Government to take action when the penalties actually assessed by a State are inadequate to punish an offender or to effectively deter others from committing similar offenses. Nevertheless, if State enforcement does adequately serve these functions, the committee would not expect that an individual would normally be subject to additional Federal penalties.

Third, since judicial decisions with respect to the constitutionality of a dual prosecution under both State and Federal laws for similar offenses arising out of the same set of facts appear to be in a state of flux, the committee, without expressing any opinion on this area of the law, has attempted to anticipate the possible resolution of this question by including language which says that no State may undertake any enforcement action which would preclude the United States from enforcing the provisions of the bill against any person. In other words, if the judicial decisions continue to uphold the view that an individual may be penalized for a violation of both the Federal and a State antisoring law concurrently in both jurisdictions, this provision will have no effect on State action. But if in the future the courts should decide that once an individual has been prosecuted in one jurisdiction, the second jurisdiction will be precluded from bringing any enforcement action against that individual for a similar offense arising out of the same set of facts, this provision indicates the committee's intention that the Federal action should take priority. In those circumstances, a State would be prohibited from commencing an enforcement action unless the Federal Government had waived any interest in the case. And the committee would anticipate that such a waiver would be granted on a case-by-case basis in which the appropriate Federal official considered, among other factors the vigor with which State officials have pursued earlier violations where a waiver had been granted.

The committee believes, however, that since nonwillful violations under this bill are subject to civil penalties, a future judicial decision which prohibits dual Federal-State criminal prosecutions for similar offenses arising out of the same fact situation might still permit the Federal Government to collect a civil penalty from an individual who has already been criminally prosecuted by a State. If this is the case, section 10 should have no effect on State enforcement actions dealing with nonwillful violations. But should the courts decide that the combination of both a Federal civil penalty action and a State criminal prosecution would be unconstitutional, then the committee's earlier comments on Federal priority would still prevail.

However, even if the courts should prohibit dual Federal-State criminal prosecutions but permit collection of a civil penalty in one jurisdiction after a criminal prosecu-

tion had taken place in another, the jurisdictional conflict would still exist with respect to willful violations. As mentioned earlier, in this situation the Federal criminal prosecution would take precedence over any State action. Absent a Federal waiver in a specific case, the State would be prohibited from acting. The committee realizes, however, that it may be difficult to determine initially whether a particular violation was committed willfully. Therefore, it would anticipate that if this confused jurisdictional situation should arise in the future, the Secretary of Agriculture, under the authority delegated to him under section 9, would issue regulations to help guide both State and Federal officials in determining when a possible offense should be regarded as being willful for the purpose of deciding which jurisdiction should initiate enforcement proceedings.

Section 11.—Section 11 provides that after the expiration of 30 calendar months following the date of enactment of this act, and every 24 calendar months thereafter, the Secretary of Agriculture is to submit to the Congress a report on the administration of the act, including a summary of enforcement and other actions taken thereunder together with such recommendations for legislative and other action as he deems appropriate. The committee would also anticipate that the Secretary would append to this report a compilation of States antisoring statutes, and that he would include in the report an analysis of the effectiveness with which the various State laws are being enforced and a specific discussion of Federal enforcement efforts in States with antisoring laws. In the event any of the jurisdictional problems discussed in this report in connection with the provisions of section 10 materialize, the committee also expects that the report would include a summary of the instances, if any, in which the Federal Government has waived its right to enforce this bill and a description of the penalties subsequently obtained by a State under its own statute.

Section 12.—Section 12 would authorize the appropriation of such sums, not to exceed \$100,000 annually, as may be necessary to carry out the provisions of the bill.

COSTS

S. 2543 would authorize the appropriations of not more than \$100,000 annually to carry out the provisions of the bill.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended, so as to read: "A bill to prohibit the movement in interstate or foreign commerce of horses which are 'sored', and for other purposes."

Mr. TYDINGS. Mr. President, Senate passage of S. 2543 marks a significant step in my long effort to outlaw the cruel practice of soring Tennessee walking horses.

These horses are magnificent show animals. Known for its high stepping gait or "walk," the Tennessee walking horse has achieved great popularity. Anyone who has seen these horses cannot but be impressed by the grace and beauty of their stride.

The walk is achieved through patient and careful training. It is the result of both the trainer's skill and the horse's natural breeding. Unfortunately, it was discovered some 15 years ago that if the front feet of the horse were deliberately made sore, the pain of setting his feet

upon the ground would cause the horse to lift them up quickly, thrusting them forward, in exactly the desired gait.

The walk with its handsome stride, or "big lick" as it is known among walking horse enthusiasts, could thus be achieved without the long and difficult training period. It could make a mediocre horse perform like a champion.

That it was particularly cruel and inhumane did not seem to matter. Soring, as the practice is called, is the deliberate inflation of pain to the horse's foot in order to affect his gait.

It is a vicious practice, harmful to the horse and debasing to the individual who does it. The St. Louis Post Dispatch rightly terms soring a "monstrous practice which is a disgrace to civilized men."

Hearings by the Commerce Subcommittee on Energy, Natural Resources, and the Environment revealed that soring is widespread throughout the industry. The reason is clear. Sored horses can win and winning is the name of the game. A trainer who does not sore his horse is at a competitive disadvantage. Everyone therefore does it. The responsible individual who does not want to resort to soring must if he is to compete effectively. As the Washington Evening Star notes, such cruelty is "particularly despicable when dumb animals are victimized for the sake of a blue ribbon." But, as we all know, the desire to win leads men to do things they might not otherwise.

Soring, of course, is condemned by everyone. Yet it is condoned as well. Neither the industry involved, and it is a billion-dollar industry, nor the States in which it occurs, the practice is by no means limited to Tennessee, appear either willing or able to put an end to soring.

It is perhaps regrettable that Federal legislation is required to stop soring, but it is a fact.

The measure we have just passed, if enacted by the House, and I urge them to do so quickly, would put an end to soring.

The bill makes unlawful the shipment in interstate commerce of a sored horse, the showing of a sored horse in a horse show, or the conducting of a horse show in which a sored horse participates.

Violation of the act may result in a civil penalty of up to \$1,000 assessed by the Secretary of Agriculture. Provision is made in the legislation for proper notification and an opportunity for a hearing, as well as for judicial review. A willful violation may result in a criminal penalty of up to \$2,000 and imprisonment for not more than 6 months, or both.

It is a strong bill, but a fair bill. It places no undue administrative or financial burden on anyone. It is directed toward no particular State nor seeks to punish a particular industry. Rather, it is aimed at a particularly cruel practice and seeks to eliminate what everyone agrees is a monstrous way to treat a horse.

The bill provides that a person who conducts a horse show is not in violation of the act if he can establish that "all reasonable precautions" were taken to

prevent participation of a sore horse. This covers the situation where a sore horse slips through by accident, a situation that might occur in a large show where hundreds of horses participate. This change was suggested at the hearings by the American Horse Shows Association. It adds an acceptable flexibility to the bill.

Another change is the inclusion of section 10 which provides for concurrent jurisdiction of State and Federal laws regarding soring. This change was suggested at the committee's executive session. It means neither law preempts the other. The Federal law is still applicable if there is a parallel State regulation, and vice versa. This amendment enables us to avoid the emotional subject of State versus Federal law. It states either or both are valid and thereby suggests that soring be stopped promptly.

I should add here that the definition of soring has been carefully drafted. There should be no confusion as to its meaning. The phrase "for the purpose of affecting its gait", modifies the clause explaining how soring is accomplished. This would and does exclude pain inflicted for medicinal purposes. Let me make the record explicit. Soring as defined in this bill does not include therapeutic treatment by a veterinarian. I recognize that pain or fear may result from doctor's care, and that possibly this would affect the horses gait. The bill does not forbid this kind of care. Such a prohibition is contrary to the general thrust of the measure, as commonsense would indicate. The bill aims at, and the definition covers, the infliction of pain and or fear in order to alter the stride of the horse, not to prevent an act of kindness.

The bill has the full support of the American Horse Shows Association and the American Horse Protection Association. At the hearings on S. 2543, the Department of Agriculture, which will administer the act and report back to Congress on its effect, testified that it had no objections to the bill's enactment. The Humane Society of the United States and the Committee on Humane Legislation also endorsed the bill. Moreover, it received most favorable editorial comment in the Washington Evening Star, Nashville Tennessean, Memphis Press-Scimitar, St. Louis Post-Dispatch, and Christian Science Monitor.

The passage of the bill represents the culmination of a 3-year effort to secure legislation protecting the Tennessee walking horse from this cruel practice. The bill was first introduced in May 1966 and then again, with a new Congress, in May 1967. It now focuses on the horse show rather than on a single prohibition on interstate shipment. This permits the Department of Agriculture to administer the law without unreasonable burden and places a responsibility—and properly so—on those conducting a horse show as well as those who enter horses in them.

Recently soring has received considerable public attention. Its cruelty has been exposed and is now undeniable, as is the need for an effective law prohibiting soring. S. 2543 is such a law. Soring has no place in any civilized society. The practice should be outlawed. It is now pain-

fully obvious that only a Federal law will do this effectively.

I commend the Senate for its sensitivity to the cruel wrong that is perpetrated on the walking horse. I applaud its winningness to act, and know that I am joined in this by my colleagues who cosponsor this measure, Senators CASE, GOODELL, GRAVEL, MOSS, NELSON, PELL, PROXMIRE, RANDOLPH, SCOTT, SPONG, THURMOND, and YOUNG of Ohio.

VIETNAM—WAR OF THE PASSES

Mr. GOLDWATER. Mr. President, today I would like to share with the Members of the Senate some of the impressions and observations of the situation in Southeast Asia which I gained during a trip to the Vietnam theater and from which I returned on Monday of this week. At the outset, I should like to explain that my tour of Vietnam was in connection with the Air Force's Military Affiliate Radio System (MARS) in which I have been greatly interested for some time. Twenty-five volunteers operate a MARS station at my home in Arizona. This station has long been used in transmitting messages to and from military personnel in Vietnam and elsewhere in the world. In fact, over 41,000 calls have been completed.

However, Mr. President, my remarks here today are not directed at the MARS program. This is a subject which I intend to deal with specifically and in some detail at a later date. Rather, my purpose today is to give the Senate the benefit of the information and observations I picked up from officers and men directly involved in the air combat operation. Although my purpose in visiting Vietnam was the MARS program, it was inevitable that I should meet and visit in many parts of the war zone with men I had known throughout my life as an Air Force officer and young men whom I had met while they were going through the Air Force bases such as Luke and Williams. Many of these young men today are flying missions and commanding squadrons in Vietnam.

Mr. President, let me be very candid in these remarks. I wish to state that I believe some major and costly mistakes have been made in Vietnam and I believe we are continuing to make some mistakes in the conduct of this unhappy and frustrating war.

It reminds me of other mistakes which I believe have been made by my country in three wars over the past three decades. These mistakes have one thing in common. They were all political mistakes involving military operations. It has been 28 years since the United States became involved in World War II. In those 28 years we have made some great strides forward in the field of foreign policy, but we have also taken some backward steps. For example, our entry into World War II was inevitable and inescapable as well as correct and just. But students of that war must recognize that President Roosevelt made a fundamental mistake in demanding unconditional surrender of the Axis powers. Some historians believe that this political mistake made by civilian politicians in the field of military proce-

dures may have prolonged World War II by 12 to 18 months.

This may have been one of the first times that we as a nation came face to face with the problems involved in political considerations having a direct effect on military objectives in time of war.

Next, in consideration of Korea, I believe history will find President Harry Truman was entirely correct in deciding that this country should enter that conflict in defense of human freedom. But I also think that history will hold him severely to account for his decision which overrode the military judgment of men like Gen. Douglas MacArthur and limited American action to the territory south of the Yalu River.

This decision, which prevented American forces from attacking enemy supply depots and air fields which were feeding the assault against American fighting men, was also a political decision reached by nonmilitary men who were fearful of further straining American relations with Red China.

Now, within the memory of most of my colleagues in this body, we have seen entered into the history books two political mistakes made in the field of strategic judgment affecting the issue of war and peace.

With this understanding, it perhaps is easier to recognize the mistakes, again political in nature, which have prolonged the fighting in Vietnam and presented our Government with an almost insoluble international problem. Vietnam started out as a promise. It was a promise made by President Eisenhower to assist the people of South Vietnam if their Government should be challenged by Communist aggressors. This promise, made in good faith by a man who understood well the problems of war and military operations attendant to war, was honored. President Eisenhower honored that commitment by supplying to the Government of South Vietnam a handful of expert military advisers, a small amount of equipment, and the moral and diplomatic support of the strongest nation in the world.

When President John Kennedy assumed office and began taking military advice from Defense Secretary Robert McNamara, the decision was made to send some 16,000 troops to Vietnam. This, I believe, marked the official beginning of our active and substantive involvement in the Vietnam war as a virtual combatant. Unfortunately, President Kennedy did not live long enough to put into effect a policy to which I believe he would have committed our Nation; namely, a policy aimed at winning a military victory in Vietnam.

In the months following President Kennedy's assassination, there was considerable confusion over whether our objective in Vietnam was to bring about a military victory for the anti-Communist forces. During the 1964 campaign, I, as the Republican nominee for President, tried repeatedly to get President Johnson to enter into a public discussion with me on the problem of Vietnam so that it could be ascertained for the benefit of the enemy that, regardless of which one of us was elected, a decision would be

made to win that war and to escalate our effort to bring about that conclusion.

Of course, I was not successful. President Johnson did not appear interested in the strategic value of confronting our enemies with the psychological fact of a united resolve to win a victory regardless of which political party controlled our Government.

At the time President Johnson was heavily influenced, I am convinced, by Secretary McNamara and others in the Government who distrusted our military experts and who argued strongly for civilian direction of even the most routine military operations and decisions. At one time it was reliably reported that American forces could not even fly a bombing mission until the Secretary of Defense and the President personally approved of the target.

And, of course, this was the prelude to another political mistake. This time our official policy became one which was described as a "limited war." Many prominent people, myself included, sought time and again to explain that a policy of limited war—on the basis of all our historical experience and all the sum total of military strategy—was self-defeating.

I, myself, considered this policy as tragic a mistake as the unconditional surrender which became the American objective in World War II. Time and again the experience of Korea was cited together with the historical concept of war as the last and final instrument of national policy. It seemed to make no difference to those in charge of our national destiny that we had become perhaps the first Nation in the world to go to war without a firm resolve to win.

The trouble with a limited war is the obvious fact that no one can be sure the enemy will play our kind of game. It stands to reason that plain logic dictates the fact that if we announce a policy of limited warfare, our enemy's obvious move is to go all out. He has nothing to lose. He becomes immediately the judge of everything we do. He becomes dictator of such vital factors as where and when and under what conditions the war will be waged.

Another political blunder was made, in my opinion, when the bombing of the North was stopped on November 1, 1968. This has enabled the North Vietnamese to establish an immense inventory of weapons North of the DMZ. Again in my opinion, and it is one I share with many military experts, the war in Vietnam was at a point where the end could be seen when this halt was called.

I could not help but think of these facts of history the other night while listening to President Nixon give his latest progress report to the American people on the war in Vietnam. I must emphasize here how impressed and proud I was of our President for stating the case starkly and honestly. I believe that under the former administration we had become so used to optimistic predictions that never came true that the entire credibility of a government was called into question. Mindful of what I saw and heard in Vietnam, I was especially impressed with Mr. Nixon's understanding of the adamant and unreasonable stand of the North Vietnamese. He made

no bones about the fact that the enemy is still insisting on conditions which would humiliate the United States and impose communism on the people of South Vietnam. And I especially liked his flat declaration that these are conditions that we cannot and will not accept.

In all honesty I must say that I am concerned at the rate with which we are withdrawing our troops from South Vietnam. While I believe sincerely in the Nixon policy of "Vietnamization of the war," I personally think that it may take longer than the administration seems to expect. But I would remind you that the President mentioned the fact that withdrawing troops at a time when infiltration from the North seems to be increasing involves an element of risk.

From my own observations, I believe the risk is quite considerable. Since we stopped the bombing of North Vietnam in November, 1968, the avenues of infiltration have been widened and the opportunity for running untold tons of equipment and thousands of troops down from the North have been greatly facilitated. Also, the enemy has stockpiled mile after mile and tons of equipment North of the DMZ all of which are destined for the South.

This brings me to the major point which I want to stress here today. I believe we must understand thoroughly just what kind of a war we are conducting at the present time in Vietnam and under the restrictions which our efforts to bring about a reasonable and peaceful response from Hanoi have placed on our fighting men.

Mr. President, we are fighting a "war of the passes." This is a war made necessary by the bombing halt and by our preoccupation with the concept of limited war. These passes for which we battle are the high roads over which the supplies, the gunpowder, the weapons used to kill American fighting men move into the war zone from sanctuaries in the North. Our mission quite simply is to block those passes. We are not interested in the real estate. We merely want to deny these avenues to the trucks and other vehicles which are bringing the sinews of war to our enemies. We are fighting a war to stop supplies moving through these passes rather than a war directed at the reservoirs which hold these supplies in the North. And so long as the sources of these supplies go untouched, our task in the passes is a little like trying to hold back the tides. No matter how much of the supplies and equipment we destroy in the passes, more of the same will be coming through later so long as the railroads continue to run down from China into North Vietnam and the Communist ports controlled by Hanoi remain open to supply ships from Russia and other European countries.

I noticed in the morning press and I heard on the morning television we have finally admitted there is a buildup in the infiltration of supplies to the South. In fact, there has been a letdown in the number of troops but never in the number of trucks. I can make this statement now without fear of violating classification. The night I was near a particular

point, 600 enemy trucks were counted. Our problem is in knocking them out.

In the following statement I want to make it perfectly clear that I do not criticize the powerful efforts being made by our Air Force pilots to stop this traffic. They are superb but face the problems of weather and night attacks, plus the never-ending warehouse north of the DMZ in Vietnam.

I suggest that the "war of the passes" in Vietnam will go on for many months, perhaps for additional years, unless one of two things happens. The first would be a negotiated settlement of the war at the Paris peace talks—an unlikely prospect according to our President—and second would be a resumption of the bombing to the North, a determination to destroy the rail lines from China and the port of Haiphong, plus all other avenues of supply.

In all honesty I have reached this conclusion about the war in Vietnam: Unless we resume the bombing in the North, I can see no way that we can win this war. I even question whether we could, without such action, extricate ourselves from the involvement with any degree of honor and any assurance that South Vietnam will not be treated to the kind of bloodbath which overtook the unfortunate city of Hue when the Communists gained control.

The President has reached a fork in the Vietnam road. One offshoot would lead to complete pullout, which he will not do, and the other would lead to a never-ending war which neither the President nor the American people would allow. His problem then is to find another road. Bringing the combat men home as Vietnamization takes place is a right and wise move if not done too rapidly. But as much as the situation is taken over by the Vietnamese, there still remains the flood of supplies from the north and the Vietnam air force is far short of the ability to handle this problem. Only we, with our B-52s, our tactical aim of the Air Force and the Navy can do the job. And I sincerely hope the President will take this action so that the war will end—end shortly and the calm of peace will settle where men die today because of the mistakes of the past.

I want to take this opportunity to thank the distinguished majority leader for his kindness in permitting me to make these remarks this morning.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. GOLDWATER. I yield.

Mr. DOLE. Mr. President, I listened with great interest to the Senator from Arizona because he knows what he is talking about. He has been there and discussed the situation with those on the field.

I am wondering whether we can continue the Vietnamization policy and still resume the bombing. Is it inconsistent with bringing back our ground troops and resuming the bombing? I understand the Senator to say we can do both.

Mr. GOLDWATER. Yes, because I believe we should never have engaged our ground forces in Southeast Asia. I think that was a mistake. I think it was a theater the air could handle and can to-

91ST CONGRESS
1ST SESSION

S. 2543

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 19, 1969

Referred to the Committee on Interstate and Foreign Commerce

AN ACT

To prohibit the movement in interstate or foreign commerce of horses which are “sored”, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the “Horse Protection Act of
4 1969”.

5 SEC. 2. (a) A horse shall be considered to be sored if,
6 for the purpose of affecting its gait—

7 (1) a blistering agent has been applied internally or
8 externally to any of the legs, ankles, feet, or other parts
9 of the horse;

10 (2) burns, cuts, or lacerations have been inflicted on
11 the horse;

1 (3) a chemical agent, or tacks, nails, or wedges have
2 been used on the horse; or

3 (4) any other method or device has been used on the
4 horse, including, but not limited to, chains or boots;
5 which may reasonably be expected (A) to result in physical
6 pain to the horse when walking, trotting, or otherwise mov-
7 ing, (B) to cause extreme fear or distress to the horse, or
8 (C) to cause inflammation.

9 (b) As used in this Act, the term "commerce" means
10 commerce between a point in any State or possession of the
11 United States (including the District of Columbia and the
12 Commonwealth of Puerto Rico) and any point outside
13 thereof, or between points within the same State or posses-
14 sion of the United States (including the District of Columbia
15 and the Commonwealth of Puerto Rico) but through any
16 place outside thereof, or within the District of Columbia, or
17 from any foreign country to any point within the United
18 States.

19 SEC. 3. The Congress hereby finds (1) that the practice
20 of soring horses for the purposes of affecting their natural
21 gait is cruel and inhumane treatment of such animals; (2)
22 that the movement of sored horses in commerce adversely
23 affects and burdens such commerce; and (3) that horses
24 which are sored compete unfairly with horses moved in
25 commerce which are not sored.

1 SEC. 4. (a) It shall be unlawful for any person to ship,
2 transport, or otherwise move, or deliver or receive for move-
3 ment, in commerce, for the purpose of showing or exhibition,
4 any horse which such person has reason to believe is sore.

5 (b) It shall be unlawful for any person to show or
6 exhibit, or enter for the purpose of showing or exhibiting, in
7 any horse show or exhibition, any horse which is sore if
8 that horse or any other horse was moved to such show or
9 exhibition in commerce.

10 (c) It shall be unlawful for any person to conduct any
11 horse show or exhibition in which there is shown or exhibited
12 a horse which is sore, if any horse was moved to such show
13 or exhibition in commerce, unless such person can establish
14 that he took all reasonable precautions to prevent the show-
15 ing or exhibiting of such sore horse.

16 SEC. 5. (a) Any representative of the Secretary of
17 Agriculture is authorized to make such inspections of any
18 horses which are being moved, or have been moved, in com-
19 merce and to make such inspections of any horses at any
20 horse show or exhibition within the United States to which
21 any horse was moved in commerce, as he deems necessary
22 for the effective enforcement of this Act, and the owner or
23 other person having custody of any such horse shall afford
24 such representative access to and opportunity to so inspect
25 such horse.

1 (b) The person or persons in charge of any horse show
2 or exhibition within the United States, or such other person
3 or persons as the Secretary of Agriculture (hereinafter re-
4 ferred to in this Act as the "Secretary") may by regulation
5 designate, shall keep such records as the Secretary may by
6 regulation prescribe. The person or persons in charge of any
7 horse show or exhibition, or such other person or persons as
8 the Secretary may by regulation designate, shall afford the
9 representatives of the Secretary access to and opportunity to
10 inspect and copy such records at all reasonable times.

11 SEC. 6. (a) Any person who violates any provision of
12 this Act or any regulation issued thereunder, other than a vio-
13 lation the penalty for which is prescribed by subsection (b) of
14 this section, shall be assessed a civil penalty by the Secretary
15 of not more than \$1,000 for each such violation. No penalty
16 shall be assessed unless such person is given notice and oppor-
17 tunity for a hearing with respect to such violation. Each viola-
18 tion shall be a separate offense. Any such civil penalty may be
19 compromised by the Secretary. Upon any failure to pay the
20 penalty assessed under this subsection, the Secretary shall re-
21 quest the Attorney General to institute a civil action in a
22 district court of the United States for any district in which
23 such person is found or resides or transacts business to collect
24 the penalty and such court shall have jurisdiction to hear and
25 decide any such action.

1 (b) Any person who willfully violates any provision of
2 this Act or any regulation issued thereunder shall be fined
3 not more than \$2,000 or imprisoned not more than six
4 months, or both.

5 SEC. 7. Whenever the Secretary believes that a willful
6 violation of this Act has occurred and that prosecution is
7 needed to obtain compliance with the Act, he shall inform
8 the Attorney General and the Attorney General shall
9 take such action with respect to such matter as he deems
10 appropriate.

11 SEC. 8. The Secretary, in carrying out the provisions
12 of this Act, shall utilize, to the maximum extent practicable,
13 the existing personnel and facilities of the Department of
14 Agriculture. The Secretary is further authorized to utilize the
15 officers and employees of any State, with its consent, and
16 with or without reimbursement, to assist him in carrying
17 out the provisions of this Act.

18 SEC. 9. The Secretary is authorized to issue such rules
19 and regulations as he deems necessary to carry out the pro-
20 visions of this Act.

21 SEC. 10. No provision of this Act shall be construed as
22 indicating an intent on the part of the Congress to occupy
23 the field in which such provision operates to the exclusion
24 of the law of any State on the same subject matter, unless
25 there is a direct and positive conflict between such provision

1 and the law of the State so that the two cannot be reconciled
2 or consistently stand together. Nor shall any provision of this
3 Act be construed to exclude the Federal Government from
4 enforcing the provision of this Act within any State, whether
5 or not such State has enacted legislation on the same subject,
6 it being the intent of the Congress to establish concurrent
7 jurisdiction with the States over such subject matter. In no
8 case shall any such State take any action pursuant to this
9 section involving a violation of any such law of that State
10 which would preclude the United States from enforcing the
11 provisions of this Act against any person.

12 SEC. 11. On or before the expiration of thirty calendar
13 months following the date of enactment of this Act, and every
14 twenty-four-calendar-month period thereafter, the Secretary
15 shall submit to the Congress a report upon the matters cov-
16 ered by this Act, including enforcement and other actions
17 taken thereunder, together with such recommendations for
18 legislative and other action as he deems appropriate.

1 SEC. 12. There are hereby authorized to be appropriated
2 such sums, not to exceed \$100,000 annually, as may be nec-
3 essary to carry out the provisions of this Act.

Passed the Senate December 18 (legislative day, Decem-
ber 16) , 1969.

Attest:

FRANCIS R. VALEO,
Secretary.

91ST CONGRESS
1ST Session

S. 2543

AN ACT

To prohibit the movement in interstate or foreign commerce of horses which are "sored", and for other purposes.

DECEMBER 19, 1969

Referred to the Committee on Interstate and Foreign
Commerce

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(FOR INFORMATION ONLY;
NOT TO BE QUOTED OR CITED)

For actions of October 6, 1970
91st-2nd; No. 175

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Election recess.....6	Merchant Marine.....2	Water pollution.....8
		Wilderness.....13

HIGHLIGHTS: Senate Committee reported continuing resolution.
Rep. Findley reported assurance CCC will not sell corn during Oct. for less than Sept. prices.
Both Houses announced intention of recessing from Oct. 14--Nov. 16.

HOUSE

1. RECESS. Rep. Albert announced a proposed recess from C.O.B. Oct. 14 until Nov. 16. pp. H9674-5
2. MERCHANT MARINE ACT. Agreed to conference report on H.R. 15424, to amend the Merchant Marine Act of 1936. pp. H9639-47



3. INTERNATIONAL COFFEE AGREEMENT. Committee on Ways and Means voted to report (but did not actually report) H.R. 19567 amended, extending the International Coffee Agreement Act. p. D1108
4. LIVESTOCK. A subcommittee of the Interstate and Foreign Commerce Committee approved for full committee action S. 2543 amended, the proposed Horse Protection Act. p. D1107
5. DAY OF BREAD. Several Representatives paid tribute to the "Day of Bread", Oct. 6, noting the significance of bread and agriculture to America and the world. pp. H9614, H9693-4

SENATE

6. ELECTION RECESS. Senators Mansfield and Scott reported leadership agreement to recess the Congress on October 14 with resumption of the session on November 16. pp. S17174-75
7. DAY OF BREAD. Sen. Pearson took note of the Presidential proclamation of this day as the National Day of Bread and spoke of the importance of the occasion to Kansas, the wheat state. p. S17248
8. WATER POLLUTION. Sen. Yarborough quoted Jacques Costeau as having said "The oceans are dying. The Pollution is general" and he inserted newspaper articles relating to world water pollution. pp. S17267-9
9. APPROPRIATIONS. Committee on Appropriations reported without amendment H.J. Res. 1388, joint resolution making further continuing appropriations for the fiscal year 1971 (S. Rept. No. 91-1280). p. S17220

EXTENSION OF REMARKS

10. CCC; CORN. Rep. Findley reported that he had been assured by a "high official in the U.S. Department of Agriculture" that CCC will not sell corn during October at prices less than Sept. pp. E8912-3
11. FARMWORKERS. Rep. Talcott deplored the results of a jurisdictional strike between two farm labor unions in the Salinas and Pajaro Valleys in California and stated that the consumer is a major loser in any strike. p. E8913

OCT 7, 1970

-3-

HOUSE

1. FARM WORKERS. Rep. Talcott stated that the strikes in the vegetable fields of California have been disastrous to the farm worker and his family, and he placed in the Record news reports on the labor situation. p. H9789
2. FOOD DATING. Rep. Farbstein corrected his statement that the Department of Agriculture had undertaken a survey of European open food dating laws for his office, acknowledging for the Record that the information relayed represented comments of agricultural attaches in reply to questions put to them by the Department. pp. H9800-06
3. PACKAGING; HORSE PROTECTION. Committee on Interstate and Foreign Commerce ordered favorably reported, but did not actually report, S. 2162, amended ~~Poison Prevention Packaging Act of 1970~~; and S. 2543, amended Horse Protection Act. p. D117

EXTENSION OF REMARKS

14. ECONOMY. Rep. Devine hailed the good news about our economy stating that the market has gone up to 782 and is still climbing. p. E8952

BILLS INTRODUCED

5. WATER DISPOSAL RESEARCH. H.R. 19634, by Rep. Howard, to create the Office of Water Disposal Research and Development in the Department of the Interior; to the Committee on Public Works.
6. NATIONAL MARINE SANCTUARY. H.R. 19336, by Rep. Keith, to create the Cape Cod National Marine Sanctuary; to the Committee on Merchant Marine and Fisheries.
7. WHEAT MARKETING QUOTA. H.J. Res. 1396, by Rep. May, a joint resolution to extend the time for conducting the referendum with respect to the national marketing quota for wheat for the marketing year beginning July 1, 1971; to the Committee on Agriculture
8. POLLUTION. S. 4445, by Sen. Packwood, to amend the Soil Conservation and Domestic Allotment Act, as amended, to permit sharing the cost of agriculture-related pollution prevention and abatement measures; to the Committee on Agriculture and Forestry.

BILL APPROVED BY THE PRESIDENT

9. WHEAT RESEARCH. H.R. 13543, An act to establish a program of research and promotion for United States wheat. Signed September 26, 1970.

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COMMITTEE HEARINGS ANNOUNCEMENTS OCTOBER 8:

Agricultural Marketing Agreement amendment, H. Rules
Rivers, harbors, and flood control, H. and S. Public Works
Wage Rate Employees, H. Post Office & Civil Service (exec.)

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DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(FOR INFORMATION ONLY;
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For actions of October 12, 1970
91st-2nd; No. 179.

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Cyclamates.....9	Government grain sales....5	Stratified Primitive Area..2
Electrification.....4	Health.....13	Washakie Wilderness.....2
Farm bill.....6	Indemnification.....9	Water carriers.....1
	Livestock.....7,11	Wilderness.....2

- HIGHLIGHTS: Senate passed continuing resolution.
Senate Committee reported water carrier mixing bill.
Sen. Symington criticized method of sale of government corn stored in county bin sites.
Conferees filed report on farm bill.
House committee reported horse protection bill.
Rep. Poage inserted article highlighting importance of agricultural research.

SENATE

1. WATER CARRIERS. Committee on Commerce reported with amendments H.R. 8298, to eliminate certain restrictions relating to water carriers of bulk commodities (S. Rept. 91-1330). p. S17687
2. WILDERNESS. Committee on Interior and Insular Affairs reported with amendments, S. 1468 to designate the Stratified Primitive Area as a part of the Washakie Wilderness, Shoshone National Forest, Wyoming (S. Rept. 91-1332). p. S17687

3. CONTINUING APPROPRIATIONS. Passed without amendment, H.J. Res. 1388 making continuing appropriations until sine die adjournment of the 91st Congress. This bill now goes to the President. pp. S17776-79
4. ELECTRIFICATION. Received letter from the Administrator, REA, reporting the approval of a loan to Brazos Electric Power Cooperative, Waco, Texas; to the Committee on Appropriations. p. S17686
5. GOVERNMENT GRAIN SALES. Sen. Symington placed in the Record a letter critical of bid practice in the sale of Government corn stored in county bins. pp. S17704-05

HOUSE

6. FARM BILL. Conferees filed a report on H.R. 18546, the proposed Agricultural Act of 1970 (H. Rept. 91-1594). pp. H9963-75, H10017
7. LIVESTOCK. Committee on Interstate and Foreign Commerce filed a report on S. 2543, amended, to prohibit the movement in interstate and foreign commerce of "sored" horses (H. Rept. 91-1597). p. H10017
8. RESEARCH. Rep. Poage inserted an article by Dr. C. L. Lundell regarding the value of agricultural research and its benefits to the American people. pp. H9987-8
9. INDEMNIFICATION. Rep. Michel urged immediate action by the Judiciary Committee on H.R. 18485, to indemnify food processors and their suppliers for losses sustained by the banning of the sale of products containing cyclamates. pp. H9989-90, H9992
10. NUTRITION. Rep. Ryan included a number of statements presented before a recent Community Conference in New York City, among which were two statements on "Food: Nutrition and Health". pp. H9983-4

BILLS INTRODUCED

11. LIVESTOCK. H.R. 19678, by Rep. Melcher, to amend the Packers and Stockyards Act, as amended, so as to provide for specifications for trimming carcasses in purchases of livestock on a carcass weight basis, and for other purposes; to the Committee on Agriculture.
12. FISH. H.R. 19679, by Rep. Melcher, to authorize the Secretary of Agriculture to provide for the inspection of facilities used in the harvesting and processing of fish and fishery products for commercial purposes, for the

HORSE PROTECTION ACT OF 1970

OCTOBER 12, 1970.—Ordered to be printed

Mr. STAGGERS, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany S. 2543]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 2543) to prohibit the movement in interstate or foreign commerce of horses which are "sored," and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows (page and line numbers refer to page and line numbers of the bill as passed the Senate):

Page 1, line 4, strike out "1969" and insert "1970".

Page 1, strike out line 5 and all that follows down through line 8 on page 2, and insert the following:

SEC. 2. (a) A horse shall be considered to be sored if, for the purpose of affecting its gait—

(1) a blistering agent has been applied after the date of enactment of this Act internally or externally to any of the legs, ankles, feet, or other parts of the horse;

(2) burns, cuts, or lacerations have been inflicted after the date of enactment of this Act on the horse;

(3) a chemical agent, or tacks or nails have been used after the date of enactment of this Act on the horse; or

(4) any other cruel or inhumane method or device has been used after the date of enactment of this Act on the horse, including, but not limited to, chains or boots;

which may reasonably be expected (A) to result in physical pain to the horse when walking, trotting, or otherwise moving, (B) to cause extreme physical distress to the horse, or (C) to cause inflammation.

Page 3, lines 14 and 15, strike out "took all reasonable precautions to prevent the showing or exhibiting of such sored horse" and insert the following:

has complied with such rules and regulations as the Secretary of Agriculture may prescribe to prevent the showing or exhibition of horses which have been sored

PURPOSE

The reported bill is designed to end the inhumane practice of deliberately making sore the feet of Tennessee walking horses in order to alter their natural gait. It would do so by prohibiting the shipment of any horse in commerce, for showing or exhibition, which a person has reason to believe is sored; by making unlawful the exhibiting of a sored horse in any horse show or exhibition in which that horse or any other horse was moved in commerce; and by prohibiting the holding of any horse show in which a sored horse is exhibited in any of the horses in that show were moved in commerce.

The bill authorizes appropriations of not to exceed \$100,000 annually to carry out its provisions.

NEED

The Tennessee walking horse is a magnificent animal, distinguished by its proud, high skipping gait or "walk." As a class Tennessee walkers have become exceedingly popular and now number approximately 25,000.

The horse's distinctive "walk" may be achieved through patient, careful training and is the result of both the trainers' skill and the horse's natural breeding. Unfortunately, however, it was discovered about 20 years ago that the "walk" could also be created artificially. If the front feet of the horse were deliberately made sore, the intense pain which the animal suffered when placing his forefeet on the ground would cause him to lift them up quickly and thrust them forward, reproducing exactly the desired gait.

This soring is usually done by applying a blistering agent, such as oil of mustard, to the pastern area of the horse's leg and by wrapping this area with chains or metal rollers. Then, during a show, the sore is covered by a boot, used ostensibly to protect the horse's foreleg, but now valued because it rubs against the sore and heightens the pain even further.

The soring may also be accomplished in several other ways—nails, tacks or even injections are sometimes used—but the effect is still the same. The "walk," with its handsome stride—or "big lick" as it is known among walking horse enthusiasts—is achieved cheaply, without the long and difficult training period. It can make a mediocre horse perform like a champion.

That this method of producing the "big lick" is a particularly cruel and inhumane practice does not appear to matter to some walking horse owners and trainers. With increasing frequency they have "sored" horses in order to achieve the desired gait and win the blue ribbon. The result has been that many of these animals have been cruelly mistreated, and persons who refuse to sore their horses have been faced with a difficult dilemma: either they must forgo most opportunities to compete successfully in horse shows, or they must devote their attentions to a different breed of horse. Moreover, the practice of soring, besides inflicting great pain on the individual horse, may

seriously harm the breed itself. Because Tennessee walking horse champions are particularly valuable as studs, if a champion was created by means of soring, that practice may actually weaken, over a period of time, the breed's natural ability to "walk" in its distinctive fashion.

This bill should help end the unnecessary and inhumane practice of soring horses—something the Tennessee walking horse exhibitors have not done by themselves. By making unlawful the showing or exhibition of sored horses and imposing penalties for violations, the bill, in its practical effect, will make it impossible for persons to show sored horses in nearly all horse shows. This denial of the opportunity to win ribbons should destroy the incentive which presently exists for owners and trainers to painfully mistreat these magnificent animals.

PROVISIONS

There follows a section-by-section summary of the provisions of the reported bill, and a discussion of the committee's interpretation of these various provisions where appropriate.

Section 1.—Section 1 of the bill contains its short title: the Horse Protection Act of 1970.

Section 2.—Section 2 of the bill defines the term "commerce" and describes what is meant by the term "soring". It states that a horse shall be considered to be sored if, for the purpose of affecting its gait, a blistering agent is hereafter applied internally or externally to any of the legs, ankles, feet or other parts of the horse; if burns, cuts, or lacerations are hereafter inflicted on the horse; if a chemical agent or tacks or nails are hereafter used on the horse; or if any other cruel or inhumane method or device is hereafter used on the horse, including, but not limited to, chains or boots; which may reasonably be expected either to result in physical pain to the horse when walking, trotting, or otherwise moving; to cause extreme physical distress to the horse; or to cause inflammation. The committee would point out that not only must one of these soring techniques produce physical pain to the horse, cause extreme physical distress to the animal, or cause inflammation, but it must also be used for the purpose of affecting its gait. In addition, the committee would emphasize that the Secretary is to exercise his discretion in interpreting this definition so as not to apply it to beneficial therapeutic treatment by a veterinarian which is designed to relieve pain or lameness or to restore a lame or disabled horse's normal gait.

The committee has amended the definition of "sored", so as to apply only to actions taken after the date of enactment of the bill. Except for this change, the legislation could be construed to prevent the movement of any horse in commerce for the purpose of showing or exhibition if he has ever been sored in the past.

The committee also deleted reference to the use of wedges on horses, since they are a normal adjunct to training and do not involve cruel or inhumane treatment.

Section 3.—Section 3 of the bill contains the congressional finding that the soring of horses for the purpose of affecting their natural gait is a cruel and inhumane practice, that the movement of sored horses in commerce adversely affects and burdens such commerce, and that

horses which are sore compete unfairly with horses that are moved in commerce which are not sore.

Section 4.—Section 4 sets forth some of the violations of the bill. It makes it unlawful for any person to ship, transport or otherwise move, or to deliver or receive for movement, in commerce, for the purpose of showing or exhibition, any horse which such person has reason to believe is sore. It also makes unlawful the showing or exhibiting of a sore horse in any horse show or exhibition in which that horse or any other horse was moved to such show or exhibition in commerce. Finally it makes it unlawful for any person to conduct a horse show or exhibition in which there is shown or exhibited a horse which is sore, if any horse was moved to such show or exhibition in commerce, unless such person can establish that he took all reasonable precautions to prevent the showing or exhibiting of the sore horse.

It will be noted that violations are centered upon the horse show rather than on the individual horse which is shipped interstate. The reason for this policy is twofold. It will allow the Department of Agriculture to administer the law without unreasonable burden, and it focuses upon the principal institution—the show or exhibition—which serves to perpetuate the practice of soring. Thus the bill places responsibility on the persons conducting a horse show, as well as on those who participate in it, to make sure that there is compliance with the law.

However, since it would be unfair to impose liability upon an individual who is conducting a horse show in which a sore horse happens to be exhibited after he has made a conscientious and concerted effort to see that this does not occur, the bill provides that such a person may escape liability once he establishes that he has complied with such rules and regulations as the Secretary of Agriculture may establish to prevent the showing or exhibition of horses that have been sore. The purpose of this provision is to provide a simple method for persons conducting horse shows to know in advance the requirements they must meet in order to comply with the Act.

Section 5.—In order to facilitate the effective enforcement of the bill subsection 5(a) would authorize any representative of the Secretary of Agriculture to inspect horses which are being moved or have moved in commerce as well as horses which are at any horse show or exhibition within the United States if any horse in such show or exhibition was moved in commerce. The subsection further provides that the owner or other person having custody of any such horse shall afford such representative access to the horse and an opportunity to inspect it. A refusal to permit such inspection would constitute a violation of the bill and would expose an individual to the penalties established in section 6.

Subsection 5(b) provides that the person or persons in charge of any horse show or exhibition within the United States, or such other persons as the Secretary of Agriculture may by regulation designate, shall keep such records as the Secretary may by regulation prescribe. It also provides that the person or persons in charge of the horse show or exhibition, or such other person or persons the Secretary may by regulation designate, shall afford the representatives of the Secretary access to the records and an opportunity to inspect and copy them at all reasonable times. Again a failure to keep the required records or

to provide access to them would represent a violation of the bill and would expose an individual to the penalties established in section 6.

Since the committee believed that it could not anticipate all of the problems which might arise in the administration of the bill, it amended the original language of subsection 5(b) in order to provide the Secretary with a more general rulemaking authority. Nevertheless, the committee would anticipate that the Secretary's initial regulations will include a requirement that records be kept which will enable representatives of the Department of Agriculture to determine whether any horses were moved to or from a show or exhibition in commerce. In addition, the initial regulations should require that records be kept which will assist enforcement officials in ascertaining the name and address of the owner or exhibitor of any horse present at the show or exhibition, and which will help the Department's representatives to determine the identity and qualifications of any veterinarians who examined the horses at the show or exhibition and the approximate time at which such horses were examined.

Section 6.—Subsection 6(a) of the bill provides that any person who violates any provision of the act or any regulation issued thereunder, other than a violation subject to a criminal penalty under subsection 6(b), shall be assessed a civil penalty by the Secretary of not more than \$1,000 for each violation. This subsection further provides that no penalty shall be assessed unless the person is given notice and opportunity for a hearing with respect to the violation. The subsection also gives the Secretary the authority to compromise any civil penalty. Should any person fail to pay the civil penalty which the Secretary has assessed, the bill provides that the Secretary shall request the Attorney General to institute a civil action in the U.S. district court to collect the penalty.

Subsection 6(b) of the bill provides that if any person willfully violates any provision of the act, or any regulation issued thereunder, he shall be fined not more than \$2,000 or imprisoned for not more than 6 months or both.

Section 6 of the bill establishes civil penalties for nonwillful violations because the committee believes that this will produce more frequent enforcement efforts than would imposition of a criminal penalty for a first violation. At the same time, however, criminal penalties are provided for willful violations, anticipating that second or third time violators would customarily be subject to criminal prosecution. Persons acquitted in a criminal proceeding could still be subject to a civil penalty for a nonwillful violation under subsection 6(a).

The maximum penalties which could be recovered under the bill are \$1,000 for nonwillful violations and \$2,000 for willful violations. This provides a deterrent to persons who might consider violating the bill, for the rewards from soring—measured in terms of stud fees for a champion—could easily exceed \$100,000. Thus, both the size of the penalties and the method of enforcement provided in section 6 bear a reasonable relationship to the nature of the violation and the need for effective enforcement.

Section 7.—Section 7 provides that whenever the Secretary believes that a willful violation of the act has occurred, he shall inform the Attorney General and the Attorney General shall take such action as

he deems appropriate. Customarily, of course, this would involve the institution of criminal proceedings in an appropriate U.S. district court.

Section 8.—Section 8 directs the Secretary of Agriculture, in administering the bill, to utilize, to the maximum extent practicable, the existing personnel and facilities of the Department of Agriculture. The committee hopes that the enforcement program established by this legislation will not require the hiring of a significant number of new employees by the Department or the acquisition of any new facilities. This section would also authorize the Secretary to utilize the officers of any State, with its consent and with or without reimbursement, to assist him in carrying out the provisions of the bill.

Section 9.—This section contains a general authorization for the Secretary of Agriculture to issue such rules and regulations as he deems necessary in order to carry out the provisions of the act.

Section 10.—Section 10 makes clear the relationship of this legislation to State law. This section first emphasizes that the bill is not intended to preempt the laws of any State with respect to soring, unless the provisions of State law conflict with this bill and cannot be reconciled with it. In other words, after this legislation has been enacted a State will remain free to enact its own antisoring law and to enforce it. However, the language also makes clear the committee's intention that any State law which permits or condones soring is to be preempted by the bill.

Second, this new section also expresses the committee's intention that even if a State has an antisoring law and an enforcement program under that law, Federal officials would still be entirely free to enter the State and enforce the Federal law concurrently. Moreover, the committee is aware that a person who has shown or exhibited a sored horse or conducted a horse shown in which a sored horse is shown or exhibited could be subject to penalties under both a State and the Federal statute. The committee intends that these dual violations should exist and it values this arrangement because it will enable the Federal Government to take action when the penalties actually assessed by a State are inadequate to punish an offender or to effectively deter others from committing similar offenses. Nevertheless, if State enforcement does adequately serve these functions, the committee would not expect that an individual would normally be subject to additional Federal penalties.

Third, since judicial decisions with respect to the constitutionality of a dual prosecution under both State and Federal laws for similar offenses arising out of the same set of facts appear to be in a state of flux, the committee, without expressing any opinion on this area of the law, has attempted to anticipate the possible resolution of this question by including language which says that no State may undertake any enforcement action which would preclude the United States from enforcing the provisions of the bill against any person. In other words, if the judicial decisions continue to uphold the view that an individual may be penalized for a violation of both the Federal and a State antisoring law concurrently in both jurisdictions, this provision will have no effect on State action. But if in the future the courts should decide that once an individual has been prosecuted in one jurisdiction, the second jurisdiction will be precluded from bringing any enforcement action against that individual for a similar offense

arising out of the same set of facts, this provision indicates the committee's intention that the Federal action should take priority. In those circumstances, a State would be prohibited from commencing an enforcement action unless the Federal Government had waived any interest in the case. And the committee would anticipate that such a waiver would be granted on a case-by-case basis in which the appropriate Federal official considered, among other factors, the vigor with which State officials had pursued earlier violations where a waiver had been granted.

The committee believes, however, that since nonwillful violations under this bill are subject to civil penalties, a future judicial decision which prohibits dual Federal-State criminal prosecutions for similar offenses arising out of the same fact situation might still permit the Federal Government to collect a civil penalty from an individual who has already been criminally prosecuted by a State. If this is the case, section 10 should have no effect on State enforcement actions dealing with nonwillful violations. But should the courts decide that the combination of both a Federal civil penalty action and a State criminal prosecution would be unconstitutional, then the committee's earlier comments on Federal priority would still prevail.

However, even if the courts should prohibit dual Federal-State criminal prosecutions but permit collection of a civil penalty in one jurisdiction after a criminal prosecution had taken place in another, the jurisdictional conflict would still exist with respect to willful violations. As mentioned earlier, in this situation the Federal criminal prosecution would take precedence over any State action. Absent a Federal waiver in a specific case, the State would be prohibited from acting. The committee realizes, however, that it may be difficult to determine initially whether a particular violation was committed willfully. Therefore, it would anticipate that if this confused jurisdictional situation should arise in the future, the Secretary of Agriculture, under the authority delegated to him under section 9, would issue regulations to help guide both State and Federal officials in determining when a possible offense should be regarded as being willful for the purpose of deciding which jurisdiction should initiate enforcement proceedings.

Section 11.—Section 11 provides that after the expiration of 30 calendar months following the date of enactment of this act, and every 24 calendar months thereafter, the Secretary of Agriculture is to submit to the Congress a report on the administration of the act, including a summary of enforcement and other actions taken thereunder together with such recommendations for legislative and other action as he deems appropriate. The committee would also anticipate that the Secretary would append to this report a compilation of States antisoring statutes, and that he would include in the report an analysis of the effectiveness with which the various State laws are being enforced and a specific discussion of Federal enforcement efforts in States with antisoring laws. In the event any of the jurisdictional problems discussed in this report in connection with the provisions of section 10 materialize, the committee also expects that the report would include a summary of the instances, if any, in which the Federal Government has waived its right to enforce this bill and a description of the penalties subsequently obtained by a State under its own statute.

Section 12.—Section 12 would authorize the appropriation of such sums, not to exceed \$100,000 annually, as may be necessary to carry out the provisions of the bill.

COSTS

S. 2543 would authorize the appropriations of not more than \$100,000 annually to carry out the provisions of the bill.

AGENCY REPORTS

The agency reports covering H.R. 12438 deal with legislation similar to the reported bill, and are set out below.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., November 26, 1969.

HON. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for views of the Bureau of the Budget on H.R. 12438, a bill to protect interstate and foreign commerce by prohibiting the movement in such commerce of horses which are "sored" and for other purposes.

The Department of Agriculture is submitting a report which indicates no objection to the enactment of H.R. 12438.

This Bureau would have no objection to its enactment.

Sincerely yours,

(Signed) Wilfred H. Rommel
WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., September 17, 1969.

HON. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives.

DEAR MR. CHAIRMAN: This is in reply to your letter of June 30, 1969, requesting a report on H.R. 12438. The bill is entitled "To protect interstate and foreign commerce by prohibiting the movement in such commerce of horses which are 'sored,' and for other purposes."

A horse is sored if, for the purpose of affecting its gait, a blistering agent has been applied internally or externally, or if burns, cuts, or lacerations have been inflicted on the horse, or if a chemical agent, or tacks, nails, or wedges have been used on the horse, or if any other method or device has been used on the horse, which may reasonably be expected to cause physical pain to the horse when moving or to cause extreme fear or distress to the horse. In administration of the bill, if enacted, we would consider that the presence of heat, swelling, redness, or other evidence of inflammation or loss of function of any part

of the horse is evidence of the existence of physical pain in the animal within the meaning of subsection 2(a) of the bill. The practice has been identified with, but is not necessarily limited to, the Tennessee walking horse. The purpose of soring is to accentuate the natural gait of the horse and produce a high action of the forefeet. Available information indicates that the practice of soring is conducted in most States where shows or exhibitions involving Tennessee walking horses are held.

Under the bill, it would be unlawful for any person (a) to ship, transport, or otherwise move, or deliver or receive for movement, in commerce, as defined in the bill, for the purpose of showing or exhibition, any horse which such person has reason to believe is sored; (b) to show or exhibit, or enter for the purpose of showing or exhibiting, in any horse show or exhibition, any horse which is sored if that horse or any other horse was moved to such show or exhibition in commerce; and (c) to conduct any horse show or exhibition in which there is shown or exhibited a horse which is sored, if any horse was moved to such show or exhibition in commerce.

For enforcement purposes, representatives of this Department would be authorized to make necessary inspections of any horses which are being moved, or have been moved, in commerce, as well as inspections at any horse show or exhibition within the United States to which any horse was moved in commerce. The owner or other person having custody of any such horse would be required to afford such representatives access to and opportunity to so inspect such horse. This Department would be authorized to prescribe regulations for the keeping of records by the person or persons in charge of any horse show or exhibition in this country and such records would be available for inspection and copying at all reasonable times. Criminal penalties would be prescribed for any violation of the bill. The Secretary of Agriculture would be authorized to utilize the officers and employees of any State, with its consent, in carrying out the provisions of the bill, and we would hope to rely heavily upon assistance from those States in which shows or exhibitions are held.

This Department has no objection to the enactment of H.R. 12438.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely,

J. PHIL CAMPBELL, *Under Secretary.*

OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., September 30, 1969.

HON. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on H.R. 12438, a bill to protect interstate and foreign commerce by prohibiting the movement in such commerce of horses which are "sored," and for other purposes.

If enacted, this bill would prohibit the interstate transportation of any horse which is "sored", i.e., maimed for the purpose of affecting its gait. In addition, this bill would prohibit the exhibition of such horses following their movement in interstate commerce, and would further prohibit the conducting of any horse show which included such horses among its exhibits. Any violation of this act would be punishable by a fine of not more than \$500 or imprisonment for not more than 6 months, or both.

As to the need for this type of legislation, and the feasibility of the regulatory action authorized under it, the Department of Justice defers to the views of the regulatory agency which would be responsible for its administration, the Department of Agriculture.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

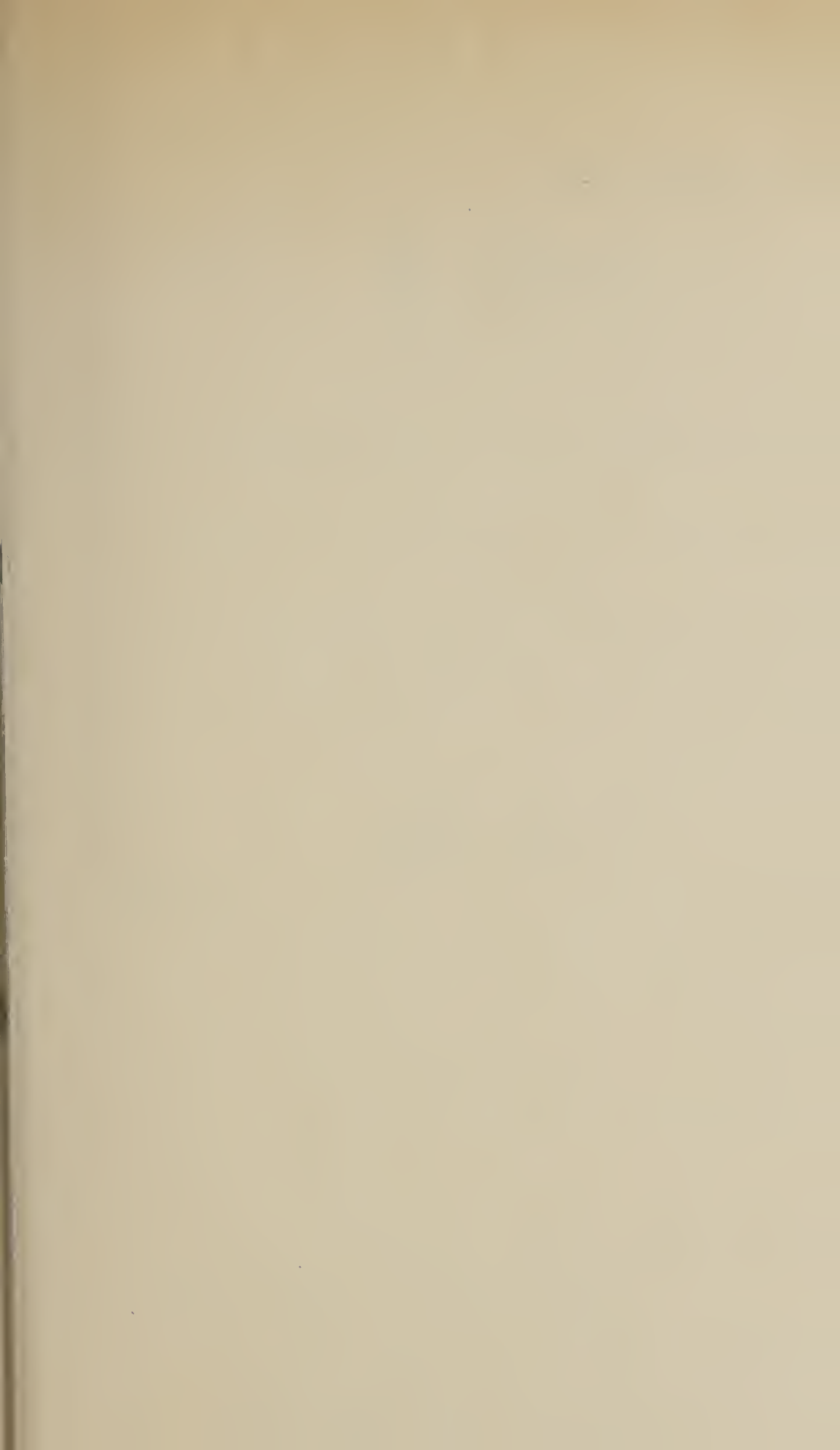
Sincerely,

RICHARD G. KLEINDIENST,
Deputy Attorney General.

CHANGES IN EXISTING LAW

The bill makes no amendments or repeals to existing laws.





91ST CONGRESS
2^D SESSION

S. 2543

[Report No. 91-1597]

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 19, 1969

Referred to the Committee on Interstate and Foreign Commerce

OCTOBER 12, 1970

Reported with amendments, committed to the Committee of the Whole House
on the State of the Union, and ordered to be printed

[Omit the part struck through and insert the part printed in italic]

AN ACT

To prohibit the movement in interstate or foreign commerce
of horses which are “sored”, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the “Horse Protection Act of
4 1969 1970”.

5 SEC. 2. ~~(a)~~ A horse shall be considered to be sored if,
6 for the purpose of affecting its gait—

7 ~~(1)~~ a blistering agent has been applied internally
8 or externally to any of the legs, ankles, feet, or other
9 parts of the horse;

10 ~~(2)~~ burns, cuts, or lacerations have been inflicted
11 on the horse;

1 ~~(3)~~ a chemical agent, or tacks, nails, or wedges
2 have been used on the horse; or

3 ~~(4)~~ any other method or device has been used on
4 the horse, including, but not limited to, chains or boots;
5 which may reasonably be expected ~~(A)~~ to result in physical
6 pain to the horse when walking, trotting, or otherwise mov-
7 ing, ~~(B)~~ to cause extreme fear or distress to the horse, or
8 ~~(C)~~ to cause inflammation.

9 *SEC. 2. (a) A horse shall be considered to be sored if,*
10 *for the purpose of affecting its gait—*

11 *(1) a blistering agent has been applied after the*
12 *date of enactment of this Act internally or externally to*
13 *any of the legs, ankles, feet, or other parts of the horse;*

14 *(2) burns, cuts, or lacerations have been inflicted*
15 *after the date of enactment of this Act on the horse;*

16 *(3) a chemical agent, or tacks or nails have been*
17 *used after the date of enactment of this Act on the horse;*
18 *or*

19 *(4) any other cruel or inhumane method or device*
20 *has been used after the date of enactment of this Act on*
21 *the horse, including, but not limited to, chains or boots;*
22 *which may reasonably be expected (A) to result in physical*
23 *pain to the horse when walking, trotting, or otherwise mov-*
24 *ing, (B) to cause extreme physical distress to the horse, or*
25 *(C) to cause inflammation.*

1 (b) As used in this Act, the term "commerce" means
2 commerce between a point in any State or possession of the
3 United States (including the District of Columbia and the
4 Commonwealth of Puerto Rico) and any point outside
5 thereof, or between points within the same State or posses-
6 sion of the United States (including the District of Columbia
7 and the Commonwealth of Puerto Rico) but through any
8 place outside thereof, or within the District of Columbia, or
9 from any foreign country to any point within the United
10 States.

11 SEC. 3. The Congress hereby finds (1) that the practice
12 of soring horses for the purposes of affecting their natural
13 gait is cruel and inhumane treatment of such animals; (2)
14 that the movement of sored horses in commerce adversely
15 affects and burdens such commerce; and (3) that horses
16 which are sored compete unfairly with horses moved in
17 commerce which are not sored.

18 SEC. 4. (a) It shall be unlawful for any person to ship,
19 transport, or otherwise move, or deliver or receive for move-
20 ment, in commerce, for the purpose of showing or exhibition,
21 any horse which such person has reason to believe is sored.

22 (b) It shall be unlawful for any person to show or
23 exhibit, or enter for the purpose of showing or exhibiting, in
24 any horse show or exhibition, any horse which is sored if

1 that horse or any other horse was moved to such show or
2 exhibition in commerce.

3 (c) It shall be unlawful for any person to conduct any
4 horse show or exhibition in which there is shown or exhibited
5 a horse which is sores, if any horse was moved to such show
6 or exhibition in commerce, unless such person can establish
7 that he took all reasonable precautions to prevent the show-
8 ing or exhibiting of such sores horse *has complied with such*
9 *rules and regulations as the Secretary of Agriculture may*
10 *prescribe to prevent the showing or exhibition of horses which*
11 *have been sores.*

12 SEC. 5. (a) Any representative of the Secretary of
13 Agriculture is authorized to make such inspections of any
14 horses which are being moved, or have been moved, in com-
15 merce and to make such inspections of any horses at any
16 horse show or exhibition within the United States to which
17 any horse was moved in commerce, as he deems necessary
18 for the effective enforcement of this Act, and the owner or
19 other person having custody of any such horse shall afford
20 such representative access to and opportunity to so inspect
21 such horse.

22 (b) The person or persons in charge of any horse show
23 or exhibition within the United States, or such other person
24 or persons as the Secretary of Agriculture (hereinafter re-
25 ferred to in this Act as the "Secretary") may by regulation

1 designate, shall keep such records as the Secretary may by
2 regulation prescribe. The person or persons in charge of any
3 horse show or exhibition, or such other person or persons as
4 the Secretary may by regulation designate, shall afford the
5 representatives of the Secretary access to and opportunity to
6 inspect and copy such records at all reasonable times.

7 SEC. 6. (a) Any person who violates any provision of
8 this Act or any regulation issued thereunder, other than a vio-
9 lation the penalty for which is prescribed by subsection (b) of
10 this section, shall be assessed a civil penalty by the Secretary
11 of not more than \$1,000 for each such violation. No penalty
12 shall be assessed unless such person is given notice and oppor-
13 tunity for a hearing with respect to such violation. Each viola-
14 tion shall be a separate offense. Any such civil penalty may be
15 compromised by the Secretary. Upon any failure to pay the
16 penalty assessed under this subsection, the Secretary shall re-
17 quest the Attorney General to institute a civil action in a
18 district court of the United States for any district in which
19 such person is found or resides or transacts business to collect
20 the penalty and such court shall have jurisdiction to hear and
21 decide any such action.

22 (b) Any person who willfully violates any provision of
23 this Act or any regulation issued thereunder shall be fined
24 not more than \$2,000 or imprisoned not more than six
25 months, or both.

1 SEC. 7. Whenever the Secretary believes that a willful
2 violation of this Act has occurred and that prosecution is
3 needed to obtain compliance with the Act, he shall inform
4 the Attorney General and the Attorney General shall take
5 such action with respect to such matter as he deems appro-
6 priate.

7 SEC. 8. The Secretary, in carrying out the provisions
8 of this Act, shall utilize, to the maximum extent practicable,
9 the existing personnel and facilities of the Department of
10 Agriculture. The Secretary is further authorized to utilize the
11 officers and employees of any State, with its consent, and
12 with or without reimbursement, to assist him in carrying
13 out the provisions of this Act.

14 SEC. 9. The Secretary is authorized to issue such rules
15 and regulations as he deems necessary to carry out the pro-
16 visions of this Act.

17 SEC. 10. No provision of this Act shall be construed as
18 indicating an intent on the part of the Congress to occupy
19 the field in which such provision operates to the exclusion
20 of the law of any State on the same subject matter, unless
21 there is a direct and positive conflict between such provision
22 and the law of the State so that the two cannot be reconciled
23 or consistently stand together. Nor shall any provision of this
24 Act be construed to exclude the Federal Government from
25 enforcing the provision of this Act within any State, whether

1 or not such State has enacted legislation on the same subject,
2 it being the intent of the Congress to establish concurrent
3 jurisdiction with the States over such subject matter. In no
4 case shall any such State take any action pursuant to this
5 section involving a violation of any such law of that State
6 which would preclude the United States from enforcing the
7 provisions of this Act against any person.

8 SEC. 11. On or before the expiration of thirty calendar
9 months following the date of enactment of this Act, and every
10 twenty-four-calendar-month period thereafter, the Secretary
11 shall submit to the Congress a report upon the matters covered
12 by this Act, including enforcement and other actions
13 taken thereunder, together with such recommendations for
14 legislative and other action as he deems appropriate.

15 SEC. 12. There are hereby authorized to be appropriated
16 such sums, not to exceed \$100,000 annually, as may be necessary
17 to carry out the provisions of this Act.

Passed the Senate December 18 (legislative day, December 16), 1969.

Attest:

FRANCIS R. VALEO,

Secretary.

[Report No. 91-1597]

AN ACT

To prohibit the movement in interstate or foreign commerce of horses which are "sored", and for other purposes.

DECEMBER 19, 1969

Referred to the Committee on Interstate and Foreign
Commerce

OCTOBER 12, 1970

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(FOR INFORMATION ONLY;
NOT TO BE QUOTED OR CITED)

For actions of November 16, 1970
91st-2nd; No.182

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HIGHLIGHTS: Sen. Mansfield announced that consideration of the Farm Bill Conference Report will be delayed until Tuesday or Wed. due to absence of Chairman Ellender.

Sen. McGovern asked for rejection of the Conference Report and introduced a substitute Farm Bill (S. 4492).

House committee reported bills repealing Naval Stores Act and permitting acceptance of gifts for NAL.

House passed bill prohibiting shipment of "sored" horses in interstate commerce.

SPECIAL ANNOUNCEMENT

IN THE NEXT FEW WEEKS THIS OFFICE PLANS TO DISPOSE OF THE BULK OF THE BILLS, DOCUMENTS, AND HEARINGS ACCUMULATED DURING THE 91ST CONGRESS. AFTER THE CLOSE OF THE CONGRESS, COPIES OF BILLS, HEARINGS, AND SELECTED DOCUMENTS WILL BE AVAILABLE FOR LIBRARY LENDING ONLY. IF YOU HAVE NEED FOR ADDITIONAL COPIES OF MATERIAL PUBLISHED DURING THE 91ST CONGRESS, NOTIFY THIS OFFICE OF YOUR NEEDS AS SOON AS POSSIBLE. SEND YOUR REQUEST TO THE DIVISION OF LEGISLATIVE AND FINANCIAL REPORTING, ROOM 113-E

SENATE

1. FARM BILL. Sen. Mansfield stated that the absence of Chairman Ellender would force a two or three day delay in consideration of the Conference Report on the Farm Bill. pp. S18191-2
Sen. McGovern interpreted the farm state election results as a repudiation of Administration farm policy and introduced his farm bill as a substitute for the Conference Report. pp. S18202-04
2. APPROPRIATIONS. Both Houses received letter from Deputy Director, O.M.B., reporting necessity for a supplemental estimate of appropriation for the Forest Service, F.Y. 1971; to Committee on Appropriations. pp. S18200, H10350
3. FOOD FOR PEACE. Both Houses received letters from Deputy Director, E.M.S., reporting no foreign currency agreements under P.L. 480 for months of September and October; to the Committees on Agriculture. pp. S18200, H10350

HOUSE

4. AGRICULTURE COMMITTEE ACTION. Reported without amendment the following bills; H.R. 7444, to repeal the Naval Stores Act (H. Rept. 91-1614); and H.R. 19402, authorizing the acceptance of gifts for the benefit of the National Agricultural Library (H. Rept. 91-1615). p. H10352
5. HORSES. Passed with amendment S. 2543, prohibiting the movement in interstate or foreign commerce of "sored" horses. pp. H10302-6
6. EDUCATION. Received the annual report of the National Advisory Council on Extension and Continuing Education (H. Doc. 91-407); to the Committee on Education and Labor. pp. H10271-2
7. ENVIRONMENT. Rep. Sikes placed in the Record a recent address "Today's Environment", presented by Dr. Mark D. Hollis. pp. H10340-3
8. HEALTH PLAN. Received a report from GAO on the Government-wide service benefit plan -- Blue Cross and Blue Shield for Federal employees -- needs improved administration, Civil Service Commission; to the Committee on Government Operations. p. H10351
9. MOTORIZED EQUIPMENT. Received a report from GAO on the problems related to restricting the use of motorized equipment in wilderness and similar areas, Department of Agriculture, Department of the Interior; to the Committee on Government Operations. p. H10352

five years, for extension of family planning services to all persons desiring such services, for research programs, for training of necessary manpower, and for carrying out the other purposes set forth in this Act.

(b) Such a plan shall, at a minimum, indicate on a phased basis:

(1) the number of individuals to be served, the types of family planning and population growth information and educational materials to be developed and how they will be made available, the research goals to be reached, and the manpower to be trained;

(2) an estimate of the costs and personnel requirements needed to meet these objectives; and

(3) the steps to be taken to establish a systematic reporting system capable of yielding comprehensive data on which service figures and program evaluations for the Department of Health, Education, and Welfare shall be based.

(c) On January 1 following submission of the plan and on each January 1 thereafter for a period of five years, the Secretary shall submit to the Congress a report which shall:

(1) compare results achieved during the preceding fiscal year with the objectives established for such year under the plan;

(2) indicate steps being taken to achieve the objective during the remaining fiscal years of the plan and any revisions necessary to meet these objectives; and

(3) make recommendations with respect to any additional legislative or administrative action necessary or desirable in carrying out the plan.

SPECIAL PROJECT GRANTS FOR FAMILY PLANNING SERVICES

SEC. 5. (a) The Secretary is authorized to make grants to public agencies and nonprofit organizations and institutions to assist in the establishment and operation of voluntary family planning projects.

(b) Grants under this section shall be made according to regulations promulgated by the Secretary. Funds shall be allocated after taking into account the number of patients to be served, the extent to which family planning services are needed locally, the relative need of the applicant and its capacity to make rapid and effective use of such assistance.

(c) Any grant under this section shall be payable in such installments and subject to such conditions as the Secretary may determine to be appropriate to assure that such grant will be effectively utilized for the purpose for which it is made.

(d) For the purpose of making grants under this section, there is authorized to be appropriated \$30,000,000 for the fiscal year ending June 30, 1971, \$60,000,000 for the fiscal year ending June 30, 1972, \$90,000,000 for the fiscal year ending June 30, 1973, \$120,000,000 for the fiscal year ending June 30, 1974, and \$150,000,000 for the fiscal year ending June 30, 1975.

(e) The acceptance of family planning services provided shall be voluntary and shall not be a prerequisite or impediment to eligibility for or the receipt of other benefits or participation in any other programs of financial or medical assistance.

FORMULA GRANTS FOR FAMILY PLANNING, PUBLIC HEALTH SERVICES

SEC. 6. (a) There are authorized to be appropriated \$10,000,000 for the fiscal year ending June 30, 1971, \$15,000,000 for the fiscal year ending June 30, 1972, \$20,000,000 for the fiscal year ending June 30, 1973, \$25,000,000 for the fiscal year ending June 30, 1974, and \$30,000,000 for the fiscal year ending June 30, 1975, to enable the Secretary to make grants to State health agencies to assist the States in planning, establishing, maintaining, coordinating, and evaluating family

planning services. The sum so appropriated shall be used for making payments to States which have submitted, and had approved by the Secretary, State plans for a coordinated and comprehensive program of family planning services.

(b) From the sums appropriated to carry out the provisions of this section, the several States shall be entitled for each fiscal year to allotments determined by the Secretary on the basis of the population and financial need of the respective States.

(c) For the purposes of this section the term "State" includes the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the District of Columbia, and the Trust Territory of the Pacific Islands.

(d) The acceptance of family planning services provided shall be voluntary and shall not be a prerequisite or impediment to eligibility for or the receipt of other benefits or participation in any other programs of financial or medical assistance.

TRAINING GRANTS

SEC. 7. For the purpose of training the necessary manpower required to fulfill the purposes of sections 4 and 5, the following sums shall be authorized and appropriated: \$2,000,000 for the fiscal year ending June 30, 1971; \$3,000,000 for the fiscal year ending June 30, 1972; \$4,000,000 for the fiscal year ending June 30, 1973; \$5,000,000 for the fiscal year ending June 30, 1974; and \$6,000,000 for the fiscal year ending June 30, 1975.

RESEARCH GRANTS

SEC. 8. (a) In order to promote research in the biomedical, contraceptive development, behavioral and program implementation fields related to population and family planning, the Secretary is authorized to make grants to public agencies and nonprofit organizations and institutions, and to enter into contracts with groups, associations, institutions, individuals, or corporations for the conduct of such research.

The Secretary shall utilize the Office of Population Affairs in administering the provisions of this section.

(b) For the purpose of making grants and entering into contracts under this section, there is hereby authorized to be appropriated \$35,000,000 for the fiscal year ending June 30, 1971, \$50,000,000 for the fiscal year ending June 30, 1972, \$65,000,000 for the fiscal year ending June 30, 1973, \$85,000,000 for the fiscal year ending June 30, 1974, and \$100,000,000 for the fiscal year ending June 30, 1975.

GRANTS FOR CONSTRUCTION OF POPULATION RESEARCH CENTERS

SEC. 9. (a) There is authorized to be appropriated \$12,000,000 for the fiscal year ending June 30, 1971, \$14,000,000 for the fiscal year ending June 30, 1972, \$16,000,000 for the fiscal year ending June 30, 1973, \$18,000,000 for the fiscal year ending June 30, 1974, and \$20,000,000 for the fiscal year ending June 30, 1975, for project grants to assist in meeting the cost of construction and operation of centers for research (or research and related activities) relating to human reproduction, sterility, contraception, effectiveness of service delivery, population trends, and other aspects of, or factors which affect population dynamics. Sums so appropriated shall be available until expended for payments with respect to projects for which applications have been filed under this part before July 1, 1976, and approved by the Secretary before July 1, 1977.

(b) Applications for grants under this section with respect to any center may be approved by the Secretary only if—

(1) the applicant is an institution of higher education or other public or private nonprofit institution which the Secretary determines is competent to engage in the type of

research (or research and related activities) for which the center is to be constructed; and

(2) the application contains or is supported by reasonable assurances that (A) for not less than twenty years after completion of construction, the facility will be used for the purposes for which it was constructed; (B) sufficient funds will be available for meeting the non-Federal share of the cost of constructing the facility; (C) sufficient funds will be available, when the construction is completed, for effective use of the facility for the purposes for which it was constructed; and (D) all laborers and mechanics employed by contractors or subcontractors in the performance of construction of the Center will be paid wages at rates not less than those prevailing for similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5); and the Secretary of Labor shall have, with respect to the labor standards specified in this clause, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

(c) In acting on applications for grants, the Secretary shall take into consideration the relative effectiveness of the proposed facilities in expanding the Nation's capacity for research (or research and related activities) in the field of population dynamics and such other factors as he may prescribe by regulations in order to assure that the facilities constructed with such grants, severally and together, will best serve the purpose of advancing scientific knowledge related to population dynamics.

(d) (1) The total of the grants with respect to any project under this section may not exceed 75 per centum of the necessary cost of the project as determined by the Secretary.

(2) Payment of grants under this section shall be made in advance or by way of reimbursement, and in such installments (consistent with construction progress) and on such conditions, as the Secretary may determine.

(e) If, within twenty years after completion of any construction for which funds have been paid under this section—

(1) the applicant or other owner of the facility shall cease to be a public or private nonprofit institution or

(2) the facility shall cease to be used for the purposes for which it was constructed, unless the Secretary determines, in accordance with the regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so, the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreements of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of the construction of the facility.

(f) Except as otherwise specifically provided in this section, nothing contained in this section shall be construed as authorizing any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over, or impose any requirement or condition with respect to, the research or related activities conducted by, or the personnel or administration of, any institution.

(g) Within six months after the enactment of this section, the Secretary, after consultation with the appropriate advisory council or councils, shall prescribe general regulations covering the eligibility of institutions, and

the terms and conditions for approving applications.

(h) As used in this section the terms "construction" and "cost of construction" include (A) the construction of new buildings and the expansion, remodeling, and alteration of existing buildings, including architects' fees and the cost of acquisition of land, but not including the cost of offsite improvements, and (B) equipping new buildings and existing buildings, whether or not expanded, remodeled or altered.

(i) The Secretary shall administer the provisions of this section by and through the Office of Population Affairs.

SPECIAL PROJECT GRANTS AND CONTRACTS FOR FAMILY PLANNING AND POPULATION GROWTH INFORMATION DISTRIBUTION AND EDUCATIONAL MATERIALS DEVELOPMENT

SEC. 10. (a) The Secretary is authorized to make project grants and enter into contracts with public agencies and nonprofit organizations and institutions to assist in developing and making available family planning and population growth information (including educational materials) to all persons desiring such information (or materials).

(b) For the purpose of making grants or entering into contracts under this section there are authorized to be appropriated \$750,000 for the fiscal year ending June 30, 1971; \$1,000,000 for the fiscal year ending June 30, 1972; \$1,250,000 for the fiscal year ending June 30, 1973; \$1,500,000 for the fiscal year ending June 30, 1974; and \$1,750,000 for the fiscal year ending June 30, 1975.

(c) The acceptance of family planning and population growth information (including educational materials) provided shall be voluntary and shall not be a prerequisite or impediment to eligibility for or the receipt of other benefits or participation in any other programs of financial or medical assistance. Passed the Senate July 14, 1970.

Attest:

SECRETARY.

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. STAGGERS moves to strike out all after the enacting clause of the bill S. 2108 and to insert in lieu thereof the provisions of the bill H.R. 19318 as passed.

The SPEAKER. The question is on the motion offered by the gentleman from West Virginia (Mr. STAGGERS).

The motion was agreed to.

MOTION OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer a motion to strike out the preamble of the Senate bill.

The Clerk read as follows:

Mr. STAGGERS moves to strike out the preamble of the bill S. 2108.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 19318) was laid on the table.

CORRECTION OF VOTE

Mr. KING. Mr. Speaker, on rollcall No. 350 I am not recorded. I answered "Yea." I talked to the reading clerk. There may have been a mistake in that I did respond. Mr. Speaker, I ask unanimous consent that the RECORD of today and the permanent RECORD be corrected accordingly.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

PERSONAL ANNOUNCEMENT

Mr. FOUNTAIN. Mr. Speaker, on the preceding rollcall, No. 350, on the bill S. 3785, I was taking an emergency call and did not respond to my name. Had I been present, I would have voted "Yea."

GENERAL LEAVE TO EXTEND

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

HORSE PROTECTION ACT OF 1970

Mr. STAGGERS. Mr. Speaker, I move to suspend the rules and pass the bill (S. 2543) to prohibit the movement in interstate or foreign commerce of horses which are "sored," and for other purposes, as amended.

The Clerk read as follows:

S. 2543

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Horse Protection Act of 1970".

SEC. 2. (a) A horse shall be considered to be sored if, for the purpose of affecting its gait—

(1) a blistering agent has been applied after the date of enactment of this Act internally or externally to any of the legs, ankles, feet, or other parts of the horse;

(2) burns, cuts, or lacerations have been inflicted after the date of enactment of this Act on the horse;

(3) a chemical agent, or tacks or nails have been used after the date of enactment of this Act on the horse; or

(4) any other cruel or inhumane method or device has been used after the date of enactment of this Act on the horse, including, but not limited to, chains or boots;

which may reasonably be expected (A) to result in physical pain to the horse when walking, trotting, or otherwise moving, (B) to cause extreme physical distress to the horse, or (C) to cause inflammation.

(b) As used in this Act, the term "commerce" means commerce between a point in any State or possession of the United States (including the District of Columbia and the Commonwealth of Puerto Rico) and any point outside thereof, or between points within the same State or possession of the United States (including the District of Columbia and the Commonwealth of Puerto Rico) but through any place outside thereof, or within the District of Columbia, or from any foreign country to any point within the United States.

SEC. 3. The Congress hereby finds (1) that the practice of soring horses for the purposes of affecting their natural gait is cruel and inhuman treatment of such animals; (2) that the movement of sored horses in commerce adversely affects and burdens such commerce; and (3) that horses which are sored compete unfairly with horses moved in commerce which are not sored.

SEC. 4 (a) It shall be unlawful for any person to ship, transport, or otherwise move, or deliver or receive for movement, in commerce, for the purpose of showing or exhibition, any horse which such person has reason to believe is sored.

(b) It shall be unlawful for any person to show or exhibit, or enter for the purpose of showing or exhibiting, in any horse show or exhibition, any horse which is sored if that horse or any other horse was moved to such show or exhibition in commerce.

(c) It shall be unlawful for any person to conduct any horse show or exhibition in which there is shown or exhibited a horse which is sored, if any horse was moved to such show or exhibition in commerce, unless such person can establish that he has complied with such rules and regulations as the Secretary of Agriculture may prescribe to prevent the showing or exhibition of horses which have been sored.

SEC. 5 (a) Any representative of the Secretary of Agriculture is authorized to make such inspections of any horses which are being moved, or have been moved, in commerce and to make such inspections of any horses at any horse show or exhibition within the United States to which any horse was moved in commerce, as he deems necessary for the effective enforcement of this Act, and the owner or other person having custody of any such horse shall afford such representative access to and opportunity to so inspect such horse.

(b) The person or persons in charge of any horse show or exhibition within the United States, or such other person or persons as the Secretary of Agriculture (hereinafter referred to in this Act as the "Secretary") may by regulation designate, shall keep such records as the Secretary may by regulation prescribe. The person or persons in charge of any horse show or exhibition, or such other person or persons as the Secretary may by regulation designate, shall afford the representatives of the Secretary access to and opportunity to inspect and copy such records at all reasonable times.

SEC. 6 (a) Any person who violates any provision of this Act or any regulation issued thereunder, other than a violation the penalty for which is prescribed by subsection (b) of this section, shall be assessed a civil penalty by the Secretary of not more than \$1,000 for each such violation. No penalty shall be assessed unless such person is given notice and opportunity for a hearing with respect to such violation. Each violation shall be a separate offense. Any such civil penalty may be compromised by the Secretary. Upon any failure to pay the penalty assessed under this subsection, the Secretary shall request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found or resides or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action.

(b) Any person who willfully violates any provision of this Act or any regulation issued thereunder shall be fined not more than \$2,000 or imprisoned not more than six months, or both.

SEC. 7. Whenever the Secretary believes that a willful violation of this Act has occurred and that prosecution is needed to obtain compliance with the Act, he shall inform the Attorney General and the Attorney General shall take such action with respect to such matter as he deems appropriate.

SEC. 8. The Secretary, in carrying out the provisions of this Act, shall utilize, the maximum extent practicable, the existing personnel and facilities of the Department of Agriculture. The Secretary is further authorized to utilize the officers and employees of any State, with its consent, and with or

without reimbursement, to assist him in carrying out the provisions of this Act.

SEC. 9. The Secretary is authorized to issue such rules and regulations as he deems necessary to carry out the provisions of this Act.

SEC. 10. No provision of this Act shall be construed as indicating an intent on the part of the Congress to occupy the field in which such provision operates to the exclusion of the law of any State on the same subject matter, unless there is a direct and positive conflict between such provision and the law of the State so that the two cannot be reconciled or consistently stand together. Nor shall any provision of this Act be construed to exclude the Federal Government from enforcing the provision of this Act within any State, whether or not such State has enacted legislation on the same subject, it being the intent of the Congress to establish concurrent jurisdiction with the States over such subject matter. In no case shall any such State take any action pursuant to this section involving a violation of any such law of that State which would preclude the United States from enforcing the provisions of this Act against any person.

SEC. 11. On or before the expiration of thirty calendar months following the date of enactment of this Act, and every twenty-four-calendar-month period thereafter, the Secretary shall submit to the Congress a report upon the matters covered by this Act, including enforcement and other actions taken thereunder, together with such recommendations for legislative and other action as he deems appropriate.

SEC. 12. There are hereby authorized to be appropriated such sums, not to exceed \$100,000 annually, as may be necessary to carry out the provisions of this Act.

The SPEAKER. Is a second demanded?

Mr. NELSEN. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from West Virginia is recognized for 20 minutes.

Mr. STAGGERS. Mr. Speaker, this bill passed the Senate unanimously last year, and was unanimously reported from our committee in October.

The bill is entitled the Horse Protection Act of 1970, and is intended to put an end to the practice of some persons of deliberately soring horses. Tennessee walking horses have a very distinctive gait or walk. This distinctive gait can be achieved through patient training, or, unfortunately, through deliberately making the front feet of the horse sore.

Unfortunately this practice of soring horses has become quite widespread, so that today it is impossible to be certain that Tennessee walking horses at horse shows are performing as a result of their training, or from having been deliberately mistreated.

Soring of horses is usually done by applying a blistering agent to the horse's leg and by wrapping this area with chains or metal rollers. Then, during a show, the sore is covered by a boot which rubs against the sore and heightens the pain even further. As a result of the horse's front legs being sore, the gait of the horse is achieved quickly, without the long and difficult training period.

This bill is designed to end this practice by prohibiting the shipment of any

horse in commerce, for showing or exhibition, which a person believes is sore. The bill also makes unlawful the exhibition of a sore horse in any horse show or exhibition unless the person conducting the show has complied with reasonable regulations established by the Department of Agriculture for the purpose of preventing the showing of sore horses.

The committee has amended the bill to provide that the prohibition against moving of horses in commerce shall apply only to horses which are sore after the date of enactment of the bill.

Mr. Speaker, there are approximately 25,000 Tennessee walking horses in the United States today, and it is unfortunate that the Tennessee walking horses exhibitors have found themselves unable to do anything to end the practice of deliberate mistreatment of these animals. We feel that the legislation is necessary, and the agency reports on similar legislation express no objection to its enactment.

As I mentioned, the committee was unanimous, and we recommend that the bill be passed.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Iowa.

Mr. GROSS. This would not require an Assistant Secretary of Agriculture for Sore Horses, would it?

Mr. STAGGERS. No; I do not think so, Mr. GROSS.

Mr. GROSS. I notice there is the sum of \$100,000 per year contained in the bill for some purpose or another, and in looking at the personnel over in the Department of Agriculture I would think they would have enough personnel in-house to take care of the provisions of this bill. If the gentleman from West Virginia thinks they ought to have another \$100,000, provided there is not an Assistant Secretary appointed, I will go along with the gentleman. I think the bill is a good bill otherwise.

Mr. STAGGERS. Well, in response to the gentleman from Iowa I would just quote to him the Secretary who stated that in carrying out the provisions of this act he shall utilize to the maximum extent practicable the existing personnel and the facilities of the Department of Agriculture.

Mr. GROSS. I am glad to hear that, but another \$100,000 goes along with it.

Mr. STAGGERS. Well, that is true. However, this will not exceed \$100,000, if needed. We would hope that they would not need any of it, in fact.

Mr. NELSEN. Mr. Speaker, I yield myself such time as I may consume.

(Mr. NELSEN asked and was given permission to revise and extend his remarks.)

Mr. NELSEN. Mr. Speaker, as has been pointed out by the gentleman from West Virginia, this bill was given unanimous support in our committee.

Frankly, Mr. Speaker, I think the trend in the walking horse industry is moving in the direction of not pursuing this soring of horses as pointed out in this bill. The trend is moving in this direction anyway. However, those of us who have

seen the exhibits and who have seen what has been done and the terrible practice that has been pursued in the training of these walking horses has certainly been regrettable. Our committee thought this was a worthy cause. I think that, perhaps, the dollar cost will not even reach the amount set forth in this bill. I say this because I am of the opinion that it can be enforced by a lesser amount. The purpose of the bill is a good one and I hope it passes unanimously.

Mr. STAGGERS. Mr. Speaker, I yield such time as he may consume to the subcommittee chairman, the gentleman from Oklahoma (Mr. JARMAN).

(Mr. JARMAN asked and was given permission to revise and extend his remarks.)

Mr. JARMAN. Mr. Speaker, I simply rise in strong support of this bill. This bill strikes at the cruel and inhumane treatment of walking horses. It is much needed legislation. I urge the passage of the bill.

Mr. STAGGERS. Mr. Speaker, I yield such time as he may consume to the ranking member of the subcommittee, the gentleman from Florida (Mr. ROGERS).

(Mr. ROGERS of Florida asked and was given permission to revise and extend his remarks.)

Mr. ROGERS of Florida. Mr. Speaker, I think the gentleman from West Virginia for yielding to me this time.

Mr. Speaker, I rise in support of S. 2543, the Horse Protection Act of 1970.

I doubt that a single member of the House has not heard or read about the inhumane practice of soring used by many unscrupulous trainers to make walking horses lift their feet.

In short, this practice employs a chemical compound to make tender a portion of the horse's hoof so that he will lift it higher and more quickly. This practice is wrong and would be corrected by the legislation which we are now considering.

First, the walking horse can be trained without inflicting this pain. In fact, most reputable trainers do not use this method.

Secondly, any method which inflicts pain on an animal should not be allowed to continue.

There are between 25,000 and 60,000 walkers in the country. This indicates that the scope of the problem is large enough to be of consequence. This legislation, which is similar to the bill which I cosponsored, would prohibit the transportation of an animal which has been sored; would allow inspection of horses by the Secretary of Agriculture.

I think that the provisions in this legislation will bring about the proper safeguards to insure that the practice of soring is discontinued. I know that my colleagues join with me in voicing concern over this shameful practice and will join in voting for its passage.

Mr. STAGGERS. Mr. Speaker, I would like to say in conclusion in just one sentence that I wish to commend the Subcommittee on Health of the Committee on Interstate and Foreign Commerce for the great work they have done this year. They have been almost in constant session in bringing good bills to the floor of the House.

Mr. NELSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky (Mr. CARTER).

(Mr. CARTER asked and was given permission to revise and extend his remarks.)

Mr. CARTER. Mr. Speaker, I rise in strong support of this bill. I feel this is a very humane bill and one which will certainly lead to better treatment and better training of these wonderful walking horses. I strongly support the bill.

Mr. STAGGERS. Mr. Speaker, I yield such time as he may consume to the distinguished Speaker of the House, the gentleman from Massachusetts (Mr. McCORMACK).

(Mr. McCORMACK asked and was given permission to speak out of order.)

THE LATE RICHARD CARDINAL CUSHING OF
BOSTON

Mr. McCORMACK. Mr. Speaker, the recent death of Richard Cardinal Cushing of Boston has taken from our midst a great churchman who had an intense love of God and of his neighbor. He was an outstanding American with an intense love of our country.

Upon his elevation some years ago as auxiliary bishop to the episcopacy of the Catholic Church, he said in part:

This day my hand goes out in friendship to all men, and it will never be withdrawn.

It never was.

During his lifetime, Cardinal Cushing raised tens of millions of dollars for charitable purposes, to build hospitals, schools, and churches, and to assist the poor, the afflicted, the sick and those discriminated against. He had a particular love for retarded children, as he so beautifully referred to them as "the exceptional children." His love of these "exceptional children" is evidenced by the fact that his last resting place is on the grounds of a school he established some years ago for these children.

It is well known that every dollar that Cardinal Cushing raised was spent by him in the service of God and mankind, and that he never had a penny for himself.

Cardinal Cushing was ordained a priest in 1921 and elevated to auxiliary bishop of Boston in June 1939. In September of 1944, he was named and elevated to the position of archbishop of the archdiocese of Boston, and in 1958, a member of the college of cardinals.

As his successor, Archbishop Medeiros said:

He was truly a great soul, a man of universal genius, a priest of selfless dedication, a bishop of towering stature.

There is so much that can be said of Cardinal Cushing and his wonderful life, but his eminence, Patrick Cardinal O'Boyle, archbishop of Washington, in the statement he made upon the death of Cardinal Cushing, sums up the wonderful life that Cardinal Cushing led when he said:

I was profoundly saddened to learn of the death of Cardinal Cushing. I wish to offer my sympathy to the grieving people of Boston, both Catholic and non-Catholic alike whom he served so well and so long. The Church in the United States has felt the strong influence of Cardinal Cushing in

many ways. It would be impossible to sum up in a few short sentences a career of dedication and devotion which has spanned nearly fifty years as a priest and over thirty years as a bishop.

His life was dedicated to the poor. There are few if any men who could accomplish so much in such a short period of time to alleviate the suffering of the poor. Numerous homes for the aged poor, for youth and for infants bear testimony to his indefatigable desire to help all those in need.

May a merciful judgment be meted out to this champion of mercy, understanding and bountiful goodness.

While Cardinal Cushing is no longer alive, his spirit will always live as an example and inspiration to follow, not only by this generation, but by countless generations to come.

Cardinal Cushing was a dear and valued friend of both Mrs. McCormack and myself. We are deeply grieved in his passing. However, as has been said by myself and countless others, the spirit of Cardinal Cushing will live on for generations to come, guiding, inspiring, and directing persons to a nobler and more fruitful life.

Mr. Speaker, I ask unanimous consent to include in my remarks a partial text of an excellent eulogy rendered at the funeral Mass by John Cardinal Wright.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The material referred to follows:

[From the Boston Sunday Globe,
Nov. 8, 1970]

"HE STOOD SO TALL, SO ENERGETIC, SO
CONFIDENT, SO RADIANT"

(Partial text of the eulogy delivered by
John Cardinal Wright)

"And God will wipe away every tear from their eyes. And death shall be no more; neither shall there be mourning, nor crying, nor pain any more, for the former things have passed away. And he who was sitting on the throne said, 'Behold, I make all things new!'" (Apocalypse, Chap. 21, V. 4-5).

The lamented Cardinal Archbishop of Boston was a man of many contradictions—some within minutes of one another. He was a man of not a few controversial words and actions—some bitter, some bewildering, some almost amusing to himself and to us who loved him. But one single, overriding, constant purpose integrated his entire life and to that abiding constancy he was totally committed unto death.

That one constant purpose was his determination, stubborn and untiring, to serve, with whatever genius or frailty, the one, holy, universal, apostolic Church, in communion with Rome, and to do everything else in his power, at all times, in all places, on every level, to advance that kingdom of God of which he knew the visible, organized Church to be the beginning and the principal agent on earth.

To this unchanging motivation, he was faithful all the days of his life and through all the mysteries—joyful, sorrowful and glorious—of that life otherwise shot through with superficial contradictions and occasional controversy.

I am grateful to Archbishop Medeiros and to the bishops and priests of this truly Holy Church of Boston for the privilege of speaking, in behalf of all present and millions not able to be present, some words of affectionate remembrance of Richard Cardinal Cushing.

The text which I read a moment ago was one I heard on his lips on many occasions,

some of them occasions so bound up with his goodness to me that they came instinctively to mind when, by a curious providence, I arrived the other night in the New York airport to be handed a scribbled note that Archbishop Medeiros and Bishop Minihan had phoned that our Cardinal was dead.

When Archbishop Cushing was installed in this Cathedral over a quarter century ago, he thought of choosing the last part of today's text—"Behold I make all things new!"—as the theme of his first sermon. A last minute decision, expressed by him with a characteristic comic touch, prompted him to choose another text, but he returned to this theme time and again in those early days of his pontificate as he went about the diocese where he was welcomed and loved so passionately.

"ALL THINGS NEW"

When he preached at the Mass establishing the new diocese of Worcester 20 years ago, he did use the last words of this text, as he did nine years later when, with paternal solicitude he installed me as bishop of Pittsburgh. This is a purely personal reason why I am grateful to be able to repeat those words as he is laid to rest, since in all my life as a brother bishop, as in the lives of thousands of bishops, thousands of priests and millions of lay collaborators these words, the aspiration of his own life, became our dynamic ideal: "Behold, I make all things new!"

These words coming from him were no heady, empty boast concerning any charismatic gifts or special talents Richard Cardinal Cushing possessed, or wished the rest of us, all of us, to share. It is an echo of words which Scripture places on the lips of that Christ, the Alpha and Omega of all things, who could alone possibly pronounce such powerful words, that Christ of whom every believer in one way, every priest in a most especial way, every bishop in a pre-eminent way is called to be the agent.

And so, from the day of his ordination as a priest, and unmistakably from the springtime of his archbishopric in the exciting years of the 1940s, Richard Cushing, fired by the energies of Christ and inspired by the words of the Lord of all, sought incessantly to "make all things new." For years this aspiration had identified him with the work of the missionary Church as few in history and no one in our times, have given themselves to the spread of the kingdom of God to the ends of the earth. Seeking to build on the firm foundations of solid faith and hold fast left by Cardinal O'Connell and his predecessors in the local Church of Boston, Archbishop Cushing aspired to bring fresh vitality—to "make all things new" again—in the diocese committed to his care. Those were the days—the latter 1940s and the early 1950s—of the joyous mysteries in the life of our beloved leader. He stood so tall, so energetic, so confident, so radiant, so indefatigable and, if one may dare to say it, so debonair, as America's youngest archbishop and one of the Church's most articulate, open-handed and prophetic witnesses to God's truth.

It was in this period of the joyful mysteries that he began to dream of concentrating his energy and his vision especially on Latin America, toward which as a neighbor continent he felt that we had special obligations in affection, generosity and faith.

Before anyone, known to me, was using the words "Third World," the indomitable Cushing in the years of his joyful mysteries was limited to the Society of St. James—the name of which had dawned on him as he stood at the shrine of St. James, one of his patron saints, at Compostella in Spain. He said half aloud, "The Spaniards were chief among those who brought the faith to South America. They did a wonderful job. The job

of bringing back the faith, 'of making all things new' must now be ours!"

Yet none of his worldwide activities distracted him, during that springtime of the joyful mysteries, from his duties here at home. He multiplied, in plain fact he pioneered new educational work for handicapped children; there are those who say that it was he who coined the tender phrase "exceptional children" to describe those born with all the odds against them. He made his own an especial apostolate to old folks, and, in a mixture of pathos and comedy, he planned festive visits not only to institutional homes for the poor, but to public restaurants, even night clubs, to which he invited those who had no one else to entertain them on national family feasts, like Thanksgiving. He was the host and he was the entertainment. He built institutions for the aged and the poor, the sick and the abandoned, but, what was much more important, he identified himself personally with all his brethren, whether they were in the institutions of the Church or those of the state, whether they were in whatever we now call poor houses or were in prisons.

It was in this period, again the springtime of his joyous mysteries, that he revealed his highly publicized flair for hats. Hats of varied and marvelous design, as well as his disarming, not to say sometimes disconcerting gift for uttering the unexpected phrase, the unstuffy remark, or a frequently astonishing bit of self-heckling and self-deprecating humor.

And thus, in the midst of laughter, intense activity and resilient indifference to either flattery or adverse criticism, he lived out the joyful mysteries of his springtime as a prelate, reproducing in deeds, something, at least of what only Christ could promise: "Behold, I make all things new."

SORROWFUL MYSTERIES

Then came the season of his sorrowful mysteries. It is a little difficult to place a date; it no longer makes any difference. It is even more difficult to assign clear causes, particularly for the contradiction, confusion and sometimes personal attack that left his spirit sorrowful, even broken, more than ravaging diseases made painful his flesh. Suddenly the seemingly carefree, contagiously enthusiastic young archbishop of the early days, began, manifestly, to share the priesthood of the Man of Sorrows, as once, not less manifestly, he had exemplified the priesthood of the Son of the Cause of Our Joy.

In the season of his sorrowful mysteries, it became common for him to faint with pain at public events or to show utter exhaustion in ceremonies or at meetings. By then the rumor began to go around, 14 years ago, that he had cancer, together with asthma and other afflictions. A loose-lipped woman started the cancer rumor. Her phone lines sizzled with the grizzly news. Finally he heard the rumor himself, as all evil reports finally reach those whom they are intended to hurt. His doctors had been discreet, but a writer whom the cardinal had helped, when no one else would help spread the rumor that he was taking means to kill pain and that he was showing symptoms of metastasis and sclerosis. He called up to say, "Do you believe them?" I answered, "Who would?"

This was indeed the season of sorrowful mysteries, but he never stopped going. He never stopped preaching. He never stopped wiping away tears, though they were invariably the tears of others.

It was then that the pilgrimages for peace gave way to pilgrimages of prayer for the physical healing of others. He chartered airplanes to bring crippled and handicapped boys and girls—"his exceptional children"—close to some of whom he will be buried this afternoon—to Lourdes and to Ireland. All that was most beloved about him is summed up, not in the funny stories in the popular biographies, but in a poignant piece

of sheer poetry that was uttered at 2 o'clock in the morning 40,000 feet above the Atlantic, in the darkness of a plane filled with crippled children, their afflicted Father in Christ and the Sisters and doctor who took care of both. In the midst of the midnight silence a small boy called out, "Cardinal!" The exhausted Prince of the Holy Roman Church, to give him one of his exact titles, sleepily murmured: "What do you want, Bobby?" The small boy answered, with a demand that Christ gave the poor and the afflicted the right to make of all Christians, princes and peasants alike: "Cardinal," the small boy said, "I can't sleep. Come hold me!"

"INDEFATIGABLE"

Lest any of the captious describe the cardinal's prompt response that night as sentimental or untypical, let me quote from an article by the librarian of the Boston Atheneum, to which, by the way, the first bishop of Boston, a Frenchman, left his library. The quote again involves an airplane and Cardinal Cushing at the height of the season of his sorrowful mysteries, but still hard at work making all things new. Here is what Walter Muir Whitehill tells us in an article published last month about Massachusetts and entitled, *Who Really Rules Us?*

"Never underestimate the role played by that remarkable prelate, Cardinal Cushing. In breaking down the fences in Boston. Few cardinals have been as simple or as indefatigable. . . . Undeterred by illnesses that would have defeated an ordinary man, he carries on tirelessly. One stormy winter night in 1963 I went to LaGuardia Airport to take a shuttle to Boston. The plane was at the gate but both the time and the likelihood of its departure were uncertain. A moment after I had taken my seat, I was relieved to see Cardinal Cushing come aboard, for his presence gave us all confidence that Eastern Airlines would get us safely to Boston. They did, and on time, at that. Throughout the flight the cardinal—at the end of a long day that marked his pace—was chatting and joking with everyone, trying on pilots' caps and stewardess's hats, as if he had not a care in the world. Once on the ground at Logan airfield, he had a friendly word, a joke, a blessing for half the people he passed until he strode out of sight into the winter night."

What sustained this paradoxical man as he disappeared into the dark after his antics, some might say, his apostolate you and I will say, on the airplane where Walter Whitehill watched him with such sympathy and admiration? It was, of course, the conquering joy of those words of Christ: "Behold, I make all things new!" But joy and confidence are not always the well-springs of energy, nor certainly of holy entertainment in the midst of the sorrowful mysteries of one who is wracked with pain and exhausted by picketing demands for instant solutions of evils he had been fighting all his life since a schoolboy—and such had become the humiliating destiny of our Cardinal. Now only faith, indomitable faith, was adequate to keep alive the joy and to spark the laughter of a man sick in soul and body. There is no one in this Church who does not know the nature of that faith as it kept strong in spirit this man of broken flesh, now that the sorrowful mysteries of his beloved Rosary had overwhelmed him.

Oddly enough, the classic affirmation of that faith is in the very chapter of the Book of Job that I have already recalled him as once quoting. What Job said of old, Richard Cushing said now, without, perhaps, speaking the words but by the way he carried on in the midst of infirmity and desolation: "I know that my Redeemer liveth, and on the last day I shall rise again. And I shall be clothed again with my skin; and in my flesh I shall see God. Whom I myself shall

see, and my eyes shall behold, but not another. This is the hope that is hid in my bosom!" (Job 19, 25-57).

BEAUTIFUL LETTER

It was my privilege to come to Brighton with His Excellency the Apostolic Delegate, when the personal representative of our Holy Father in the United States brought to Cardinal Cushing the letter from Pope Paul accepting the cardinal's resignation and sending him warm and loving greetings on his birthday. I wanted to be with him when the news that the work we all had seen begin was at length ended and I wanted to have lunch with him on his birthday. He read the letter from the Holy Father; he read it out loud in his bedroom as a young boy might read an affectionate letter from his father writing from a distant place. It was a beautiful letter; you all saw it reprinted in the Pilot.

Cardinal Cushing used to say, in the midst of his years of sorrow, that he thought Good Pope John was the only Pope who understood him. Do you remember? But this was not true. Pope Paul understood him well and with exquisite sensitivity he obviously delayed as long as he dared the acceptance of the resignation on which, in fact, the exhausted archbishop insisted. He deliberately waited until his birthday which would make the resignation not only more gracious in the eyes of the public who loved him but more welcome to the suffering cardinal.

The luncheon prepared by the devoted Sisters of St. Joan of Arc for the Apostolic Delegate, for Monsignor McGuire who served him so loyally, and for me was a steak and a bit of birthday cake. But the cardinal could eat only ice cream, and not much of that so far advanced were the lesions, the tumors and the pain in his very body. After lunch and a little bit of laughter at the thought of the joyful mysteries and some invisible tears at the thought of the sorrowful mysteries, the Apostolic Delegate withdrew to phone his office concerning his travel plans. I was left alone with the cardinal. It was a terrible minute but characteristically, he broke up the melancholy. He said: "John, I am through now and I am glad. But when I am gone, if anyone asks if anything I ever said or even did somehow may have hurt the Church, what do you think the answer will be?"

And I answered as everyone here present would have said: "Archbishop, everyone will say that if you ever seemed to hurt the Church, even a little, it was in your loving desire to serve it—to make it stronger and more beautiful and beloved, to build it up as a more powerful means to the Kingdom of God!"

He thought for a moment and then he said: "I hope so. Now we have to pray for the man who is coming, to pick up some of the broken pieces, maybe, but above all to build higher and better!"

Then he smiled painfully with a face that already showed signs of the beginnings of the glorious mysteries, the glorious mysteries in the life, the death and the victory of everyone who loves God and loves his neighbor as did Cardinal Cushing. He obviously was thinking back to things as they had been 30 years before and he said: "The next man will make it all new again, won't he?"

HEAD HIGH

This was less than three months ago and it was the beginning of the end, but not quite the end. For the promise of Christ and the faith of Job enabled him a few weeks later to walk, head high, out of this cathedral after he had thrilled to the glorious mystery of seeing his successor installed, firmly and unchallenged, in the sanctuary from which the now dead cardinal's voice rang out so often, as priest and later as prelate, the promises of Jesus and the faith of the Fathers.

On that wonderful day, so recent and so proud, your applause of the dying man helped him to persevere, joyful and glorious, to the end, all sorrow being left behind. Your applause of his successor was heard around the world. It told our new archbishop to fear not, that the way will be made straight, the wilderness will be broken open with new paths and new directions, and that as God was with our Fathers, so will He be with us. God now wipes away all tears from the eyes of Richard Cushing, since death for him shall be no more, nor pain nor evil for the former things have passed away—and by that same power God gives to Archbishop Medeiros the full share of divine power needed to make all things new again!

This is the point of the Church; there is no other. This is the point of the apostolic succession; there is no other. This is the point of the priesthood; there is no other. This is the point of the Christian fact and of all the people who share it or whose lives it touches; there is no other that matters enough to mention. This is why all mysteries—joyful, sorrowful and glorious—blend in the exultant cry: "I know that my Redeemer liveth, and in the last day I shall rise out of the earth . . . and in my flesh I shall see my God!"

Confirmed in this faith, we commend this valiant newsmaker to the history books, this holy man, this zealous priest, this uncommon prelate we commend to the God who gave joy to his youth, the Christ who consoled his age, the angels and saints with whom he now shares eternal life, undying love!

Mr. BROTZMAN. Mr. Speaker, as the sponsor of H.R. 14161, the Horse Protection Act, I am pleased to rise in the support of S. 2543, a nearly identical bill.

The bill, reported by the Interstate and Foreign Commerce Committee, seeks to eliminate the heinous and inhumane practice of soring Tennessee walking horses. As a member of this committee, I want to thank the distinguished Chairman, the gentleman from West Virginia (Mr. STAGGERS), and the distinguished ranking Member, the gentleman from Illinois (Mr. SPRINGER), for moving this important piece of legislation onto the House floor.

The Horse Protection Act makes it unlawful for any person to move a sored horse in interstate commerce, or to exhibit in any show a sored horse which has been moved in interstate commerce, or for any person to conduct a show or exhibition in which a sored horse is shown unless he can establish compliance with regulations designed to keep sored horses out of shows. The Secretary of Agriculture is given the necessary authority to enforce the law, and he may impose civil penalties of up to \$1,000 for violations. In the case of willful violations, 6 months imprisonment and a fine of up to \$2,000 may be imposed.

Mr. Speaker, I have yet to encounter the person who will defend the practice of soring horses. Even those who engage in the practice deplore it, but they seem to fear that soring is necessary so long as competing horsemen sore their animals.

While the sheer cruelty of soring is sufficient reason for Congress to pass the Horse Protection Act, I believe there is another reason, an equally valid reason, for congressional action. When a horse wins a prize, its value increases significantly. Those who want to buy a horse

for breeding purposes prefer an animal which has demonstrated its ability. However, when a horse's gait is the result of soring, and not ability, the purchaser is defrauded. At the same time, the owner of a legitimate Tennessee walking horse is wronged because his horse will not bring as much money on the open market as it would have had it not had to compete with sored horses.

I fondly recall my boyhood days in Northeastern Colorado when I owned and cared for a horse. To this very day, Mr. Speaker, I occasionally have the opportunity to enjoy a little horseback riding. It is hard for me to imagine a person torturing a horse for any reason. By passing the Horse Protection Act, we in the Congress can bring an end to soring and we can restore integrity to the show horse industry.

Mr. MATSUNAGA. Mr. Speaker, as one deeply concerned over the inhumane practice of "soring" walking horses, I rise in support of S. 2543, the Horse Protection Act of 1970.

It does not require membership in the posh walking horse set to recognize the evil of the soring of the Tennessee walking horse. "Soring," the practice of using mechanical and chemical means—commonly, oil of mustard—to make a horse's feet tender so it will lift them high in the show ring and bring ribbons to its owner, is both cruel and disgraceful. Once a good clean sport, and it still could be one, the training of walking horses has degenerated into an exhibition of the most despicable type of human dishonesty.

The Tennessee walking horse is a magnificent animal, known for its intelligence, sensitivity and grace. Its distinctive high-skipping gait is normally achieved through long and careful training. But unscrupulous individuals discovered that the desired gait could be created artificially by deliberately "soring" the front feet of the horse. Instead of training the horse, these individuals have been inflicting painful sores on the animal in order to have it perform in the desired manner.

This bill we are considering is designed to end this callous practice. S. 2543 would prohibit the shipment of any "sored" horse in interstate or foreign commerce, for showing or exhibition purposes. It would make unlawful the exhibiting of a "sored" horse in any horse show or exhibition in which that horse or any other horse was moved in interstate or foreign commerce. Finally, the legislation would prohibit the holding of any horse show in which a "sored" horse is exhibited if any of the horses in that show were moved in commerce. Commerce is given a broad definition to make the legislation effective, and it includes the shipment of the described horses not only from a point within any State or U.S. possession to any point outside thereof, but it also includes shipment of such horses between points within the same State or U.S. possession through any place outside thereof and from any foreign country to any point within the United States.

To achieve maximum deterrence in this practice, the legislation also pro-

vides for civil penalties for nonwillful violations as well as the usual criminal sanctions of fine or imprisonment, or both, for willful violations.

Mr. Speaker, this legislation is needed to stop the inhumane practice of inflicting extreme cruelty on defenseless domesticated animals. It deserves our unanimous support.

Mr. BOLAND. Mr. Speaker, I want to express my support for this legislation to end a shockingly cruel practice—the deliberate "soring" of Tennessee walking horses. Prized for their brisk and precise gait, Tennessee walking horses are a celebrated attraction at horse shows. They are so celebrated, in fact, that breeders and trainers have largely abandoned the traditional means of producing the horse's haughty strut: long and painstaking training. Many breeders now "sore" the horses' front feet, making them so keenly painful that even the most mediocre horses can reproduce the stride of a champion. Blistering agents—oil of mustard, for example—are often used to irritate the horses' feet. Nails, tacks, chains, and chafing agents are alternative methods.

These practices, Mr. Speaker, are outright savagery. Deliberately torturing a helpless animal merely to entertain the crowds at horse exhibitions is reminiscent of the Roman arena 2,000 years ago.

The bill now before us would end such barbarity. By prohibiting the shipment or exhibition of a "sored" Tennessee walking horse, the bill would effectively eliminate "soring."

I urge its prompt passage.

The SPEAKER pro tempore. The question is on the motion of the gentleman from West Virginia (Mr. STAGGERS) that the House suspend the rules and pass the bill S. 2543, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, S. 2543.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

WAR POWERS OF CONGRESS AND THE PRESIDENT

Mr. ZABLOCKI. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 1355) concerning the war powers of the Congress and the President.

The Clerk read as follows:

H.J. RES. 1355

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress reaffirms its powers under the Constitution to declare war. The Congress recognizes that the President in certain extraordinary and

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(FOR INFORMATION ONLY;
NOT TO BE QUOTED OR CITED)

For actions of November 24, 1970
91st-2nd; No. 188

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HIGHLIGHTS: Senate agreed to House amendments to bill prohibiting movement of "sored" horses.
House appointed conferees on water carrier mixing bill.
House committee reported bill on duty on olives packed in airtight containers.

SENATE

1. HORSES. Agreed to House amendments to S. 2543, to prohibit the movement in interstate and foreign commerce of "sored" horses. This bill now goes to the President. pp. S18868-9.

2. COMMITTEE ACTION.

Committee on Appropriations voted to report (but did not actually report) H.R. 17755, with amendments, FY 71 Department of Transportation appropriation bill; and reported with amendments H.R. 17867, FY 71 appropriations for the foreign aid program (S. Rept. 91-1370). pp. D1189, S18793

Committee on Public Works voted to report (but did not actually report) an original omnibus rivers, harbors, and flood control bill. p. D1190

3. ENVIRONMENT. Reconsidered action in passing H.J. Res. 1117, to create a Joint Committee on the Environment, and again passed the bill with amendment. pp. S18792-3

4. RURAL AMERICA. Sen. Talmadge discussed the commitment made to revitalize rural America, stating that comprehensive planning and technical assistance is required to develop attractive growth centers from stagnant communities. pp. S18813-4

HOUSE

5. AGRICULTURE COMMITTEE ACTION.

Voted to report (but did not actually report) H.R. 19846, proposed Animal Welfare Act; and

Deferred action on H.R. 19757, proposed Egg Products Inspection bill. p. D1192

6. COMMITTEE ACTION.

Committee on Ways and Means reported H.R. 18564, amending the Tariff Schedules with respect to rate of duty on olives packed in certain airtight containers (H. Rept. 91-1623). p. H10760

A subcommittee of the Public Works Committee approved for full committee action the committee print of an omnibus rivers, harbors, and flood control bill. p. D1193

7. WATER CARRIERS. Disagreed to the Senate amendments to H.R. 8298, the water carrier mixing bill. Conference requested and conferees appointed. p. H10732

8. DISASTER RELIEF. Appointed conferees on S. 3619, to revise and expand Federal disaster relief programs. p. H10680

9. HIGHWAYS. Adopted H. Res. 1267, providing for the consideration of H.R. 19504, the proposed Federal-Aid Highway Act Authorization of 1970. pp. H10725-8

10. APPROPRIATIONS. Passed H.R. 19830, FY 71 HUD-Independent Offices appropriation bill. pp. H10711-24.

are subject to the movable property prepayment (*précompte mobilier*). This subparagraph shall not apply when the first-mentioned corporation has elected that its profits be charged to the individual income tax. However, the application of this subparagraph shall be limited to dividends paid by a United States corporation to a Belgian corporation which controls not less than 10 percent of the voting power in the first-mentioned corporation where, for the application of the exemption referred to in subparagraph (d), a similar limitation would be imposed by Belgian legislation in respect of dividends paid by corporations of Belgium.

(f) Where an individual who is a resident of Belgium and a citizen of the United States receives income from sources within the United States which is not exempt from Belgian tax under subparagraph (a) nor covered by subparagraph (c), the amount of the Belgian individual income tax proportionately attributable to such income may not exceed:

(i) In the case of dividends, interest, and royalties, an amount which, after allowance of the fixed amount in respect of the foreign tax, where applicable, corresponds to 20 percent of such income;

(ii) In the case of other income concerned, the amount which would be imposed in accordance with Belgian law, if such income were taxed as earned income derived from sources outside Belgium and subject to foreign tax.

(g) When in accordance with Belgian law, losses incurred by a resident of Belgium in a permanent establishment situated in the United States have been effectively deducted from the profits of that resident for his taxation in Belgium, the exemption provided in subparagraph (a) shall not apply in Belgium to the profits of other taxable periods attributable to that establishment to the extent that those profits have also been reduced for United States tax purposes by reason of compensation for the said losses.

(4) In the case of a corporation which is treated as a United States corporation for United States tax purposes and as a Belgian corporation for Belgian tax purposes, relief from double taxation shall be granted in accordance with the principles of paragraphs (2) and (3).

ARTICLE 24—NONDISCRIMINATION

(1) A citizen of one of the Contracting States who is a resident of the other Contracting State shall not be subjected in that other Contracting State to more burdensome taxes than a citizen of that other Contracting State who is a resident thereof.

(2) A permanent establishment which a resident of one of the Contracting States has in the other Contracting State shall not be subject in that other Contracting State to more burdensome taxes than a resident of that other Contracting State carrying on the same activities. This paragraph shall not be construed as obliging a Contracting State to grant to individual residents of the other Contracting State any personal allowances, reliefs, or deductions for taxation purposes on account of civil status or family responsibilities which it grants to its own individual residents.

(3) A corporation of one of the Contracting States, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which a corporation of the first-mentioned Contracting State carrying on the same activities, the capital of which is wholly owned or controlled by one or more residents of the first-mentioned Contracting State, is or may be subjected.

(4) The provisions of this article shall apply to taxes of every kind whether imposed at the National, State, or local level.

(5) The provisions of paragraph (2) shall not be construed as preventing Belgium from taxing the total profits attributable to a permanent establishment which is maintained in Belgium by a United States corporation, or any unincorporated entity, which is a resident of the United States at a rate which—before the application of the surcharges specified in paragraph (1)(b)(vi) of Article 2—is the highest rate at which the profits of a Belgian corporation may be taxed.

(a) However, as long as Belgium imposes its tax on the distributed profits of a Belgian corporation at a rate which is lower than such highest rate then the Belgian tax on the portion of the profits of the permanent establishment which is deemed to be distributed shall be imposed at a rate which—before the application of the surcharges specified in paragraph (1)(b)(vi) of Article 2—shall not exceed the highest rate at which such tax may be imposed on the distributed profits of a Belgian corporation.

(b) For purposes of this paragraph, the permanent establishment which is maintained in Belgium shall be deemed to distribute the same percentage of its profits as such resident distributes from its total profits.

ARTICLE 25—MUTUAL AGREEMENT PROCEDURE

(1) Where a resident of one of the Contracting States considers that the action of one or both of the Contracting States results or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of the Contracting States, present his case to the competent authority of the Contracting State of which he is a resident within 2 years from the date of notification (or collection at source) of the tax which has been last asserted or collected. Should the resident's claim be considered to have merit by the competent authority of the Contracting State to which the claim is made, the competent authority shall endeavor to come to an agreement with the competent authority of the other Contracting State with a view to the avoidance of taxation contrary to the provisions of this Convention.

(2) The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the application of this Convention. In particular, the competent authorities of the Contracting States may agree:

(a) To the same attribution of industrial or commercial profits to a resident of one of the Contracting States and its permanent establishment situated in the other Contracting State;

(b) To the same allocation of income, deductions, credits, or allowances between a resident of one of the Contracting States and any related person;

(c) To the same determination of the source of particular items of income; or

(d) To the same meaning of any term used in this Convention.

(3) The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of this article. When it seems advisable for the purpose of reaching agreement, the competent authorities may meet together for an oral exchange of opinions.

(4) In the event that the competent authorities reach such an agreement, taxes on such income shall be adjusted and refund or credit of taxes shall be allowed, by the Contracting States in accordance with such agreement.

ARTICLE 26—EXCHANGE OF INFORMATION

(1) The competent authorities of the Contracting States shall exchange such informa-

tion as is pertinent to carrying out the provisions of this Convention or preventing fraud or fiscal evasion in relation to the taxes which are the subject of this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those (including a court or administrative body) concerned with assessment, collection, enforcement, or prosecution in respect of the taxes which are the subject of this Convention.

(2) In no case shall the provisions of paragraph (1) be construed so as to impose on one of the Contracting States the obligation:

(a) To carry out administrative measures at variance with the laws or the administrative practice of that Contracting State or the other Contracting State;

(b) To supply particulars which are not obtainable under the laws, or in the normal course of the administration, of that Contracting State or of the other Contracting State; or

(c) To supply information which would disclose any trade, business, industrial, commercial, or professional secret or trade process or information, the disclosure of which would be contrary to public policy.

(3) The exchange of information shall be either on a routine basis or on request with reference to particular cases. The competent authorities of the Contracting States may agree on the list of information which shall be furnished on a routine basis.

ARTICLE 27—ASSISTANCE IN COLLECTION

(1) Each of the Contracting States shall endeavor to collect on behalf of the other Contracting State such taxes imposed by that other Contracting State as will ensure that any exemption or reduced rate of tax granted under this Convention by that other Contracting State shall not be enjoyed by persons not entitled to such benefits.

(2) In no case shall this article be construed so as to impose upon a Contracting State the obligation to carry out administrative measures at variance with the regulations and practices of either Contracting State or which would be contrary to the first-mentioned Contracting State's sovereignty, security, or public policy.

ARTICLE 28—MISCELLANEOUS

(1) Nothing in this Convention shall affect the fiscal privileges of diplomatic and consular officials under the general rules of international law or under the provisions of special agreements.

(2) The provisions of this Convention shall not be construed to restrict in any manner any exclusion, exemption, deduction, credit, or other allowance now or hereafter accorded:

(a) By the laws of one of the Contracting States in the determination of the tax imposed by that Contracting State, or

(b) By any other agreement between the Contracting States.

(3) The competent authorities of the two Contracting States may communicate with each other directly for the purpose of carrying out the provisions of this Convention.

ARTICLE 29—EXTENSION TO TERRITORIES

(1) The United States may, at any time while this Convention continues in force, by a written notification given to Belgium through diplomatic channels, declare its desire that the operation of this Convention, either in whole or in part or with such modifications as may be found necessary for special application in a particular case, shall extend to all or any of the areas (to which this Convention is not otherwise applicable) for whose international relations it is responsible and which impose taxes substantially similar in character to those which are the subject of this Convention. When Belgium has, by a written communication through diplomatic channels, signified to the United States that such notification is accepted in

respect of such area or areas, and the notification and communication have been ratified and instruments of ratification exchanged, this Convention, in whole or in part, or with such modifications as may be found necessary for special application in a particular case, as specified in the notification, shall apply to the area or areas named in the notification and shall have effect on and after the date or dates specified therein.

(2) At any time after the date of entry into force of an extension under paragraph (1), either of the Contracting States may, by 6 months' prior notice of termination given to the other Contracting State through diplomatic channels, terminate the application of this Convention to any area to which it has been extended under paragraph (1), and in such event this Convention shall cease to have effect, beginning on or after the first day of January next following the expiration of the 6-month period, in the area or areas named therein, but without affecting its continued application to the United States, Belgium, or to any other area to which it has been extended under paragraph (1).

(3) In the application of this Convention in relation to any area to which it is extended by notification by the United States, reference to the "United States" shall be construed as referring to that area.

(4) The termination in respect of the United States or Belgium of this Convention under Article 31 (Termination) shall, unless otherwise expressly agreed by both Contracting States, terminate the application of this Convention to any area to which the Convention has been extended under this article.

ARTICLE 30—ENERGY INTO FORCE

(1) This Convention shall be ratified and instruments of ratification shall be exchanged at Washington as soon as possible. It shall enter into force 1 month after the date of exchange of the instruments of ratification. The provisions shall for the first time have effect with respect to income of calendar years or taxable years beginning (or, in the case of taxes payable at the source, payments made) on or after January 1, 1971.

(2) As between the United States and Belgium, the Convention between Belgium and the United States for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed at Washington, D.C. on October 28, 1948; modified and supplemented by the Supplementary Conventions signed at Washington on September 9, 1952, and August 22, 1957, and by the Protocol signed at Brussels on May 21, 1965, shall terminate and cease to have effect in respect of income to which this Convention applies under paragraph (1) of this article.

ARTICLE 31—TERMINATION

(1) This Convention shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Convention at any time after 5 years from the date on which this Convention enters into force provided that at least 6 months' prior notice of termination has been given through diplomatic channels. In such event the Convention shall cease to have effect as respects income of calendar years or taxable years beginning (or, in the case of taxes payable at the source, payments made) on or after January 1 next following the expiration of the 6-month period.

(2) Notwithstanding the provision of paragraph (1), and upon prior notice to be given through diplomatic channels, the provisions of Article 17 (Social Security Payments) may be terminated by either Contracting State at any time after this Convention enters into force.

IN WITNESS WHEREOF, the respective Plenipotentiaries have signed this Convention and have affixed their seals.

DONE at Brussels, this 9th day of July, 1970, in duplicate, in the English, French,

and Dutch languages, the three texts having equal authenticity.

FOR THE UNITED STATES OF AMERICA:

JOHN S. D. EISENHOWER.

FOR THE KINGDOM OF BELGIUM:

PIERRE HARMEL.

The PRESIDING OFFICER. If there be no objection, Executive G, D, E, and I, 91st Congress, second session, will be considered as having passed through their various parliamentary stages up to and including the presentation of the resolutions of ratification.

The resolutions of ratification of Executives G, D, E, and I will not be read.

The resolution of ratification of Executive G, was read, as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the United States of America and the Kingdom of the Netherlands for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Estates and Inheritances, signed at Washington on July 15, 1969, and the related Protocol signed on the same date. (Executive G, 91st Congress, first session.)

The resolution of ratification of Executive D was read, as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the United States of America and Trinidad and Tobago for the Avoidance of Double Taxation, the Prevention of Fiscal Evasion with respect to Taxes on Income, and the Encouragement of International Trade and Investment, signed at Port of Spain on January 9, 1970 (Executive D, 91st Congress, second session), subject to the following reservation:

"The Government of the United States does not accept Article 7 of the Convention relating to tax deferral for technical assistance."

The resolution of ratification of Executive E was read, as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the United States of America and the Republic of Finland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Property, signed at Washington on March 6, 1970. (Executive E, 91st Congress, second session.)

The resolution of ratification of Executive I was read, as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the United States of America and the Kingdom of Belgium for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed at Brussels on July 9, 1970. (Executive I, 91st Congress, second session.)

ORDER FOR CALL OF THE CALENDAR, CONDUCT OF MORNING BUSINESS AND VOTE ON CONVENTIONS TOMORROW

Mr. MANSFIELD. Mr. President, I wish to change my previous request. This is to serve notice on the Senate, in accordance with an agreement reached some time ago, that prior to the recognition of the various Senators to whom 1½ hours in time has been allocated, it is the intention of the joint leadership to call

up unobjected-to items on the legislative Calendar.

I ask unanimous consent that after the 1½ hours are disposed of, there be a morning hour for the conduct of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. I ask that the vote on the four treaties or conventions occur not later than 12:30 tomorrow afternoon.

Mr. MILLER. Mr. President, would the Senator mind making the time 12:30? Otherwise it could be considerably earlier. It would help us.

Mr. MANSFIELD. But there will be an hour and a half of speeches. Very well; 12:30 p.m.

Mr. MILLER. I thank the majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered. The vote will occur at 12:30 p.m.

Mr. MANSFIELD. I ask for the yeas and nays on the conventions.

The yeas and nays were ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

PROGRAM

Mr. GRIFFIN. Mr. President, for the benefit of the Senate I would like to inquire of the majority leader if he can give us the schedule for the remainder of today and beyond.

Mr. MANSFIELD. It does not look as if we will be able to conduct much more business today. Being realistic and, I hope, practical, we will adjourn very shortly unless a Senator wants to discuss the present measure and a live quorum call is not put in in the meantime.

Tomorrow we will vote on the four treaties. We will vote once for the four treaties. Then we will return to the pending business to see how far we can get with it.

On Monday I had indicated that the bill for the protection of consumers might come up, but in view of the fact that the foreign aid appropriation bill and the transportation appropriation bill may be reported today, it is anticipated they would probably be taken up first, to be followed by the protection for consumers bill; and then, after that, H.R. 471 to amend the act of May 31, 1933, which has to do with the Taos Indians. Hopefully after that we will take up the defense appropriations bill and other matters that may come along.

PROHIBITION OF MOVEMENT OF CERTAIN HORSES

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2543.

The PRESIDING OFFICER (Mr.

SAXBE) laid before the Senate the amendments of the House of Representatives to the bill (S. 2543) to prohibit the movement in interstate or foreign commerce of horses which are "sored," and for other purposes, which were, on page 1, line 4, strike out "1969". and insert "1970."

On page 1, strike out all after line 4, over through and including line 8, on page 2, and insert:

SEC. 2. (a) A horse shall be considered to sored if, for the purpose of affecting its gait—

(1) a blistering agent has been applied after the date of enactment of this Act internally or externally to any of the legs, ankles, feet, or other parts of the horse;

(2) burns, cuts, or lacerations have been inflicted after the date of enactment of this Act on the horse;

(3) a chemical agent, or tacks or nails have been used after the date of enactment of this Act on the horse;

(4) any other cruel or inhumane method or device has been used after the date of enactment of this Act on the horse, including, but not limited to, chains or boots; which may reasonably be expected (A) to result in physical pain to the horse when walking, trotting, or otherwise moving, (B) to cause extreme physical distress to the horse, or (C) to cause inflammation.

On page 3, line 14, strike out all after "he" down through and including "horse." in line 15, and insert "has complied with such rules and regulations as the Secretary of Agriculture may prescribe to prevent the showing or exhibition of horses which have been sored."

Mr. MANSFIELD. Mr. President, I move that the Senate concur in the amendments of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

U.S. PARTICIPATION IN CERTAIN INTERNATIONAL FINANCIAL INSTITUTIONS

The Senate resumed the consideration of the bill (H.R. 18306) to authorize U.S. participation in increases in the resources of certain international financial institutions, to provide for an annual audit of the Exchange Stabilization Fund by the General Accounting Office, and for other purposes.

AMENDMENT NO. 1081

Mr. MILLER. Mr. President, I send an amendment to the desk and ask that it be read.

The PRESIDING OFFICER (Mr. Packwood). The amendment will be read.

The legislative clerk read the amendment, as follows:

At the end of the bill add the following new chapter:

"Chapter 4. ANNUAL REPORT OF NATIONAL ADVISORY COUNCIL

"SEC. 41. ANNUAL REPORT

"The National Advisory Council on International Monetary and Financial Policies shall include in its annual report to the Congress (1) a statement with respect to each loan approved by the International Bank for Reconstruction and Development, the International Development Association, the Inter American Development Bank, and the Asian Development Bank, and a discussion of how

each loan will benefit the people of the recipient country, and (2) a statement on steps taken jointly and individually by member countries of the Inter American Development Bank to restrain their military expenditures, and to preserve and strengthen free and democratic institutions."

Mr. MILLER. Mr. President, I am pleased to yield to the Senator from New York.

BROKER-DEALER LEGISLATION

Mr. JAVITS. Mr. President, I rise to speak about the serious problems currently faced by the American securities industry and to urge passage of S. 2348, the Securities Investor Protection Act of 1970.

There can be little doubt that our securities industry is undergoing a financial crisis. It has been reported that some 150 brokerage houses have been forced into liquidation and that hundreds of others have had to merge or cut back operations. Thousands of investors have had their cash and securities in brokerage accounts frozen pending the perhaps long-drawn-out settlement of bankruptcy suits or other court actions. The news media presents increasingly disturbing reports of the industry's basic financial health and its resources for coping with the current crisis. Responsibility for brokerage house failures is variously assigned to poor management, corrupt practices, inadequate self-regulation by the exchange, lax enforcement of capital and other requirements by the SEC, and a host of other factors.

Whatever the origin of the crisis, however, two facts are clear: the crisis is endemic, affecting the whole securities industry throughout the entire country; second, there has been a resultant decline in investor confidence in securities brokers and dealers.

These two facts suggest to me that Congress must restore confidence in the securities industry by acting on S. 1358. This bill, a most valuable and timely initiative by Senator MUSKIE, will establish a Securities Investor Protection Corporation to protect investors from losses caused by brokerage house failures in much the same manner that bank depositors are now protected; this will be accomplished with little net expenditure of public funds. As such the bill represents an opportunity to enhance the security of hundreds of thousands of investors and to shore up the image of an important national asset, the American capital market, without detracting from other programs and items of national importance.

The need for a securities Investor Protection Corporation can be demonstrated most dramatically merely by reciting the history of the New York Stock Exchange's \$55 million trust fund over the past few months. This trust fund was established in 1954, to protect the customers of insolvent member firms. From its position of confidently assuring the investor community that the trust fund was fully adequate to protect investors against almost any contingency, the stock exchange has retreated step by step, until it is now widely assumed that the original \$55 million will leave many

investors out in the cold—customers of bankrupt firms.

Consider these items:

First. In an April 14 letter to Senator MUSKIE, NYSE President Robert Haack emphasized that "no customer of a member organization of the NYSE in more than 30 years has sustained a loss of securities or funds as a result of a liquidation of an NYSE firm." On July 15, the New York Exchange reassured investors that it intended to reimburse the customers of the 10 member firms then in liquidation without regard to any per-customer ceiling. On August 6, the Exchange repeated its assurances that no public investor had ever lost money upon the collapse of an NYSE member. But on August 11, only 5 days afterwards, Mr. Haack is reported in a Wall Street Journal article to have indicated that the \$55 million trust fund might not be able to protect the NYSE firms then in liquidation. And in a move that must have taken many investors by surprise the NYSE indicated in a September court affidavit that it "has consistently described the fund as a discretionary fund and not an insurance fund or a protection fund." Finally, the Exchange has revealed last week that it would move to protect the customers of three ailing firms, but only as a quid pro quo for passage of the broker-dealer insurance bill.

Second. At the present time, as I mentioned earlier, some 150 brokerage houses including some of the largest in the street have been forced into liquidation or merger operations. Thousands of investors cannot sell in their frozen securities or withdraw their frozen cash balances. The recent takeover of Goodbody & Co. by Merrill Lynch carries a \$30 million indemnification clause and a bar against other large firms from liquidating, which indicates the magnitude of the safeguards which Merrill Lynch thought to be a necessary condition for the merger. The \$55 million trust fund has been fully committed. Nevertheless, on April 14 of this year, NYSE President Haack was assuring Senator MUSKIE that the situation with respect to operational and financial problems of NYSE member firms had "vastly improved" since the previous June.

Third. On April 24 a surprise audit disclosed that Plohn & Co. was in violation of the net capital rule—the exchange's requirement that the debt-to-capital ratio of member firms not exceed 20 to 1. In July both SEC Chairman Budge and NYSE Vice President DeNunzio testified before the Senate that if any firms were permitted to operate while in a net capital deficiency, the exchange would have to accept responsibility for those firms. Nevertheless, when Plohn & Co. was suspended from the exchange in August, the NYSE was so ominously silent on the subject of protecting Plohn customers as to be widely interpreted as refusing to help them. Mr. Haack has only this last week said that the NYSE staff would recommend protection for Plohn customers; however, the apparent quid pro quo for this recommendation is passage of the Muskie bill, and the recommendation carries no guarantee of protection.

In recounting these items, one cannot but be impressed with the contradictory statements from industry officials about the ability and intention of the NYSE to support fully the customers of failing firms, but, more importantly, with the apprehension and insecurity which must be dispelled for millions of investors; their confidence in the industry's ability to protect its own best customers should at no time be in doubt.

I have long supported the principle of investor insurance, and in July I urged passage of Senator MUSKIE's bill. I again urge passage, free of amendments which would substantially weaken it. If anything, the need for this legislation has increased since July. The issue here is not the legal merits of any claims against one exchange's trust fund, but rather the health of one of our major industries, the securities industry, and the safety of the savings of millions of Americans.

The time has surely come when Congress must act to build up confidence in our uniquely free but currently distressed securities industry. If this is not done—and I believe it can be done with minimal material changes in the principles of self-regulation which govern the securities industry—we may see a reaction to these events of 1970 so strong as to serve neither the investor nor the securities industry itself. This bill is one of the top priority items remaining to be enacted by the Congress in this session.

FURTHER EVIDENCE OF INFLATION

Mr. JAVITS. Mr. President, I rise to give new evidence that the administration's so-called fight against inflation is failing to halt the trend of rising prices. The Department of Labor released this morning the Consumer Price Index for the month of October. The total price of all items increased 0.5 percent on a seasonally adjusted basis; that is to say, an annual rate of 6 percent. This is the second consecutive month for such a large rise to occur, and surely suggests that present efforts to turn the tide of inflation are simply inadequate.

The administration's "Inflation Alert," published in August, as an outcome of recommendations made by the Republicans in the JEC and by a Senate resolution I introduced, fell short of what I believe to be a necessary minimum of Presidential leadership in the wage/price area. It would now appear to have had no effect on consumer prices whose rates have greatly accelerated since its publication. Perhaps the second "Alert," which I understand is to be released very soon, will establish more effective policy actions; I urge that—as an immediate first step—this second "Alert" take a very strong stance on wages and prices.

In recent months many national economic leaders, both businessmen and members of the administration, have spoken out openly in favor of some sort of incomes policy to aid in dampening this inflation which our economy clearly cannot continue to tolerate.

I again urge the Council of Economic Advisers and the President's other eco-

nomics advisers to reconsider effecting some sort of incomes policy plan. For with an annual rate of inflation now at 6 percent surely such action is warranted.

ROMANTICIZING OF VIOLENCE

Mr. JAVITS. Mr. President, attention has been so focused upon the tiny minority of violence-prone young people that we risk overdramatizing their activities, both to ourselves, and, what is even more serious, to those young people themselves; while understanding that there is ample room in our society and opportunity for vigorous—and lawful—protest. I commend to the attention of the Members an editorial in the October 8 issue of Park East, a weekly newspaper published in New York City, which warns against romanticizing violence.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE BULLIES

In the 1920s in Germany, every bully and every sadist found that by donning a brown shirt he would be transformed from a criminal into an exponent of a new ideology for a "New Germany." There they were called Nazis; here they have given themselves a variety of names under the generic title of revolutionaries. Suddenly a common criminal who is captured by the police is transformed into a political prisoner being persecuted for his views. An ex-convict in Boston, who was arrested for allegedly participating in the bank robbery in which a policeman was killed, now calls himself a revolutionary and seeks sympathy as a political prisoner.

The ridiculous part of this is that too many people are ready to extend the hand of friendship to any murderer or robber if he covers himself with a revolutionary ideology. And these bullies know it full well. To beat up a policeman becomes an act of courage when it is performed by a mob, waving clenched fists and shouting slogans. Too many weep for the bully instead of for his victim; for the prison inmate rather than for the correction officers who were held hostage for days.

It's about time, we separated the bullies from their ideologies and treated all perpetrators of violence as equals under the law. Let us no longer protect those whose out is to portray themselves as revolutionaries; they are no better than their brethren in crime.

ATTRACTING OVERSEAS VISITORS TO OUR SHORES

Mr. JAVITS. Mr. President, I would like to comment on the U.S. effort to attract overseas visitors to our shores and to bring to the attention of my Senate colleagues an interesting speech on what the future holds in store for this effort.

It is appropriate to comment on travel at this time, since 1970 marks the passage of the first comprehensive travel legislation in 9 years. The 1970 amendments to the International Travel Act of 1961 will establish a commission to find out exactly what our travel resources and needs are; it will increase the budget of the U.S. travel service; and it will institute a program of matching grants to States engaging in international travel programs.

With a country of such diverse tourist attractions as the Grand Canyon and New York City, of Disneyland, and our own National Gallery, it is shocking that the Federal budget for attracting tourists from abroad has actually been exceeded each year by such smaller countries as Ireland, Greece, and Italy. The new programs and authorizations contained in the International Travel Act amendments will help rectify this situation; they will also pose new challenges to private businesses engaged in the \$30 billion travel industry.

In short, these amendments will not only put some muscle in the national travel effort, with all that this implies for the travel account of our balance of payments, but they will also usher in a new and expanded dimension in Federal, State, and private industry cooperation. This cooperation will be especially unique since the travel field comprises such a large diversity of businesses—for example, bus lines, hotels, restaurants, amusement parks, and travel agencies—of which a large percentage are small businesses.

How to muster the leadership for a coordinated travel program, and how to provide the millions of dollars which will be required in addition to the Federal share, is the subject of an interesting address by the chairman of the Discover America Travel Organization's International Committee, James Montgomery. Mr. Montgomery envisages 8 million overseas visitors in the United States by the end of this decade, spending together with Canadian and Mexican tourists about \$5 billion in foreign currencies. The promotion costs for this \$5 billion of business would amount to \$70 million, in Federal, State, and private industry contributions. Mr. Montgomery's analysis of funding sources, and his optimistic view of the future U.S. international travel effort is the view of an expert and one which I commend to my colleagues to read.

I ask unanimous consent that excerpts of Mr. Montgomery's speech be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

TALK AND REPORT BY JAMES MONTGOMERY, VICE PRESIDENT, PAN AMERICAN WORLD AIRWAYS

INTRODUCING THE GREAT NEW WIDE-BODIED AMERICA

The recent Assistant Secretary of State for Educational and Cultural Affairs, Charles Frankel, after leaving office, published a fascinating book "High on Foggy Bottom: An Outsiders Inside View of our Government".

This book provides some insights which may point the direction in which we should endeavor to steer our good ship DATO in the coming years. Let me quote a few highly significant paragraphs:

"Between the state governments whose jurisdictions are increasingly artificial, and the federal government, whose jurisdiction is so large and so abstract, there is a vacuum in governmental power. New forms of regional government are required to permit the creation of a modernized federal system that would remove from Washington some portion of the activities that now go on there, and that would leave greater room for initi-



Public Law 91-540
91st Congress, S. 2543
December 9, 1970

An Act

To prohibit the movement in interstate or foreign commerce of horses which are "sored", and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Horse Protection Act of 1970".

SEC. 2. (a) A horse shall be considered to be sored if, for the purpose of affecting its gait—

Horse Protection Act
of 1970.

(1) a blistering agent has been applied after the date of enactment of this Act internally or externally to any of the legs, ankles, feet, or other parts of the horse;

(2) burns, cuts, or lacerations have been inflicted after the date of enactment of this Act on the horse;

(3) a chemical agent, or tacks or nails have been used after the date of enactment of this Act on the horse; or

(4) any other cruel or inhumane method or device has been used after the date of enactment of this Act on the horse, including, but not limited to, chains or boots;

84 STAT. 1404

which may reasonably be expected (A) to result in physical pain to the horse when walking, trotting, or otherwise moving, (B) to cause extreme physical distress to the horse, or (C) to cause inflammation.

84 STAT. 1405

(b) As used in this Act, the term "commerce" means commerce between a point in any State or possession of the United States (including the District of Columbia and the Commonwealth of Puerto Rico) and any point outside thereof, or between points within the same State or possession of the United States (including the District of Columbia and the Commonwealth of Puerto Rico) but through any place outside thereof, or within the District of Columbia, or from any foreign country to any point within the United States.

"Commerce."

SEC. 3. The Congress hereby finds (1) that the practice of soring horses for the purposes of affecting their natural gait is cruel and inhumane treatment of such animals; (2) that the movement of sored horses in commerce adversely affects and burdens such commerce; and (3) that horses which are sored compete unfairly with horses moved in commerce which are not sored.

SEC. 4. (a) It shall be unlawful for any person to ship, transport, or otherwise move, or deliver or receive for movement, in commerce, for the purpose of showing or exhibition, any horse which such person has reason to believe is sored.

Unlawful acts.

(b) It shall be unlawful for any person to show or exhibit, or enter for the purpose of showing or exhibiting, in any horse show or exhibition, any horse which is sored if that horse or any other horse was moved to such show or exhibition in commerce.

(c) It shall be unlawful for any person to conduct any horse show or exhibition in which there is shown or exhibited a horse which is sored, if any horse was moved to such show or exhibition in commerce, unless such person can establish that he has complied with such rules and regulations as the Secretary of Agriculture may prescribe to prevent the showing or exhibition of horses which have been sored.

SEC. 5. (a) Any representative of the Secretary of Agriculture is authorized to make such inspections of any horses which are being moved, or have been moved, in commerce and to make such inspections of any horses at any horse show or exhibition within the United States to which any horse was moved in commerce, as he deems necessary for the effective enforcement of this Act, and the owner or other person having custody of any such horse shall afford such representative access to and opportunity to so inspect such horse.

Inspection.

Horse shows
and exhibi-
tions, rec-
ords.

(b) The person or persons in charge of any horse show or exhibition within the United States, or such other person or persons as the Secretary of Agriculture (hereinafter referred to in this Act as the "Secretary") may by regulation designate, shall keep such records as the Secretary may by regulation prescribe. The person or persons in charge of any horse show or exhibition, or such other person or persons as the Secretary may by regulation designate, shall afford the representatives of the Secretary access to and opportunity to inspect and copy such records at all reasonable times.

Penalty.

Hearing
opportunity.

SEC. 6. (a) Any person who violates any provision of this Act or any regulation issued thereunder, other than a violation the penalty for which is prescribed by subsection (b) of this section, shall be assessed a civil penalty by the Secretary of not more than \$1,000 for each such violation. No penalty shall be assessed unless such person is given notice and opportunity for a hearing with respect to such violation. Each violation shall be a separate offense. Any such civil penalty may be compromised by the Secretary. Upon any failure to pay the penalty assessed under this subsection, the Secretary shall request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found or resides or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action.

Penalty.

(b) Any person who willfully violates any provision of this Act or any regulation issued thereunder shall be fined not more than \$2,000 or imprisoned not more than six months, or both.

SEC. 7. Whenever the Secretary believes that a willful violation of this Act has occurred and that prosecution is needed to obtain compliance with the Act, he shall inform the Attorney General and the Attorney General shall take such action with respect to such matter as he deems appropriate.

Department of
Agriculture
personnel.

SEC. 8. The Secretary, in carrying out the provisions of this Act, shall utilize, to the maximum extent practicable, the existing personnel and facilities of the Department of Agriculture. The Secretary is further authorized to utilize the officers and employees of any State, with its consent, and with or without reimbursement, to assist him in carrying out the provisions of this Act.

Regulations.

SEC. 9. The Secretary is authorized to issue such rules and regulations as he deems necessary to carry out the provisions of this Act.

SEC. 10. No provision of this Act shall be construed as indicating an intent on the part of the Congress to occupy the field in which such provision operates to the exclusion of the law of any State on the same subject matter, unless there is a direct and positive conflict between such provision and the law of the State so that the two cannot be reconciled or consistently stand together. Nor shall any provision of this Act be construed to exclude the Federal Government from enforcing the provision of this Act within any State, whether or not such State has enacted legislation on the same subject, it being the intent of the Congress to establish concurrent jurisdiction with the States over such subject matter. In no case shall any such State take any action pursuant to this section involving a violation of any such law of that State which would preclude the United States from enforcing the provisions of this Act against any person.

SEC. 11. On or before the expiration of thirty calendar months following the date of enactment of this Act, and every twenty-four-calendar-month period thereafter, the Secretary shall submit to the Congress a report upon the matters covered by this Act, including enforcement and other actions taken thereunder, together with such recommendations for legislative and other action as he deems appropriate.

Report to
Congress.

84 STAT. 1406
84 STAT. 1407

SEC. 12. There are hereby authorized to be appropriated such sums, not to exceed \$100,000 annually, as may be necessary to carry out the provisions of this Act.

Appropriation.

Approved December 9, 1970.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 91-1597 (Comm. on Interstate and Foreign Commerce).

SENATE REPORT No. 91-609 (Comm. on Commerce).

CONGRESSIONAL RECORD:

Vol. 115 (1969): Dec. 18, considered and passed Senate.

Vol. 116 (1970): Nov. 16, considered and passed House, amended.

Nov. 24, Senate concurred in House amendments.

